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WHO: The Office of the Federal Register.

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DALLAS, TX

WHEN: September 25, at 9:00 a.m.
WHERE: Federal Office Building, 1100 Commerce Street, Room 7A23–175, Dallas, TX.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 915

[Docket No. FV-90-189FR]

Increase in 1990-91 Budgeted Expenditures Under the Florida Avocado Marketing Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule increases authorized expenditures by $23,500 for the 1990–91 fiscal year (April 1–March 31) under Marketing Order No. 915, covering avocados grown in South Florida. This action increases such expenditures to $150,500, up from $127,000. This action is needed so that the Avocado Administrative Committee (AAC) can pay additional anticipated marketing order expenses. The action will enable the AAC to continue to perform its duties and the marketing order to operate.

EFFECTIVE DATES: April 1, 1990, through March 31, 1991.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 475–3918.

SUPPLEMENTARY INFORMATION: This final rule is issued under the Marketing Agreement and Marketing Order No. 915 (7 CFR Part 915) regulating the handling of avocados grown in South Florida. This agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 42 handlers of Florida avocados subject to regulation under this marketing order, and about 300 avocado producers in Florida. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of these handlers and producers may be classified as small entities.

The marketing order for Florida avocados administered by the U.S. Department of Agriculture (Department) requires that the assessment rate shall apply to all assessable avocados handled from the beginning of the fiscal year. An annual budget of expenses is prepared by the AAC and submitted to the Department for approval. The members of the AAC are avocado handlers and producers. They are familiar with the AAC's needs and with the costs for goods, services, and personnel in the production area. Therefore, they are in a good position to formulate an appropriate budget, which they discuss and approve at public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

Recommended budgets are usually acted upon by the AAC shortly before the season begins, and during the season when needed, and expenses are incurred on a continuous basis. Therefore, budget approvals, and any increases, must be expedited so that the AAC will have funds to pay its expenses.

A final rule was published in the **Federal Register** (55 FR 14232, April 17, 1990), authorizing expenditures of $127,000 and an assessment rate of $0.16 per bushel (55 pounds) under M.O. 915 for the fiscal year ending March 31, 1991.

The Avocado Administrative Committee (AAC) met June 20, 1990, and unanimously recommended a $23,500 increase in 1990–91 budgeted expenditures to $150,500, up from the $127,000 currently authorized. The AAC needs the extra funds to finance additional research projects, which it has submitted to the Department for approval. The AAC plans to finance this research by drawing funds from its reserve fund, which is adequate to cover the contemplated additional expenditures. Thus, no increase in the current assessment rate is necessary.

A proposed rule concerning the $23,500 increase in expenditures was published in the **Federal Register** (55 FR 31604, August 3, 1990), with a comment period ending August 13, 1990. No comments were received.

Based on the foregoing, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This final rule amends § 915.229 under this marketing order, based on the AAC's recommendations and other information.

After consideration of all relevant matter presented, the information and recommendations submitted by the AAC, and other available information, it is found that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because approval of the additional expenses must be expedited. This marketing order's fiscal year began on April 1, 1990, and the AAC needs sufficient funds to pay its expenses which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 915 is amended as follows:

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

1. The authority citation for 7 CFR part 915 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 915.229 is amended to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

§ 915.229 Expenses and assessment rate.

Expenses of $150,500 by the Avocado Administrative Committee are authorized, and an assessment rate of $0.16 per bushel (55 pounds) of assessable avocados is established for the fiscal year ending March 31, 1991. Any unexpended funds from the 1989–90 fiscal year may be carried over as a reserve.

Dated: August 22, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–20237 Filed 8–27–90; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 987

[Docket No. FV–89–175FR]

Expenses and Assessment Rate for Marketing Order Covering Domestic Dates Produced or Packed in Riverside County, CA

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order 987 for the 1990–91 crop year established for that order. The action is needed for the California Date Administrative Committee (committee) to incur operating expenses during the 1990–91 crop year and to collect funds during that year to pay those expenses. This will facilitate program operations. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATES: October 1, 1990 through September 30, 1991.

FOR FURTHER INFORMATION CONTACT: Partick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone 202–475–3862.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 987 (7 CFR Part 987) regulating the handling of dates produced or packed in Riverside County, California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 25 handlers of California dates regulated under the date marketing order each season, and approximately 135 date producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of these handlers and producers may be classified as small entities.

The California date marketing order, administered by the Department, requires that the assessment rate for a particular crop year apply to all assessable dates handled from the beginning of such year. An annual budget of expenses is prepared by the committee and submitted to the Department for approval. The members of the committee are date handlers and producers. They are familiar with the committee's needs and with the costs for goods, services and personnel in their local area and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the committee is derived by dividing anticipated expenses by expected shipments of dates (in hundredweight). Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses.

The committee met on June 6, 1990, and recommended 1990–91 crop year expenditures of $479,400 and an assessment rate of $1.40 per hundredweight of assessable dates shipped under M.O. 987. In comparison, 1989–90 crop year budgeted expenditures were $361,480 and the assessment rate was $1.30 per hundredweight.

Included in 1990–91 budget expenditures is a $100,000 contingency fund to cover the anticipated hiring of an Executive Director to handle promotion activities. This contingency fund will cover the Executive Director's salary, travel and benefits. The major expenditure item this year is $429,000 for continuation of the committee's market promotion program. The industry is faced with an oversupply of product dates and the committee considers this program necessary to stimulate sales. Last year the committee budgeted $5,400 for liability insurance which is not included in this year's budget. The remaining expenditures are for program administration and are budgeted at about last year's amounts.

Income for the 1990–91 season is expected to total $495,500. Such income consists of $490,000 in assessments based on shipments of 35,000,000 assessable pounds of dates at $1.40 per hundredweight and $5,500 in interest income.

The committee also recommended that any unexpended funds or excess assessments from the 1989–90 crop year be placed in its reserve. The committee's reserve is well within the maximum amount authorized under the order.

Notice of this action was published in the **Federal Register** on July 10, 1990 [55 FR 28215]. The comment period ended on August 9, 1990. No comments were received.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the

Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of the information and recommendations submitted by the committee, it is found that this final rule will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 987 is amended as follows:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New § 987.335, is added to read as follows:

Note: This action will not appear in the Code of Federal Regulations.

§ 987.335 Expenses and assessment rate.

Expenses of $479,400 by the California Date Administrative Committee are authorized, and an assessment rate of $1.40 per hundredweight of assessable dates is established for the crop year ending on September 30, 1991. Unexpended funds from the 1989–90 crop year may be carried over as a reserve.

Dated: August 22, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–20238 Filed 8–27–90; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1036

[DA–90–022]

Milk in the Eastern Ohio-Western Pennsylvania Marketing Area; Temporary Revision of Supply Plant Shipping Percentages and Cooperative Association Delivery Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rules.

SUMMARY: This action increases temporarily the percentage of producer milk receipts that must be shipped by pool supply plants operated by both proprietary and cooperative association handlers under the Eastern Ohio-Western Pennsylvania milk order (Order 36). The action increases the percentage of milk receipts that must be shipped by pool supply plants to fluid milk processing plants from 40 percent to 45 percent during the months of September–November 1990, and from 30 percent to 35 percent in the months of December 1990–February 1991. The action also increases the percentage of producer milk marketed by a cooperative association that must be delivered to distributing plants to qualify plants operated by the cooperative association for pool status from 35 percent to 40 percent for the months of September 1990 through February 1991.

Increases of 10 percentage points in the minimum performance standards for such supply plants were requested by a proprietary handler who needs more milk for fluid packaging. The more conservative increases of 5 percentage points provided herein should be adequate to assure area consumers of an adequate supply of fluid milk products.

EFFECTIVE DATE: September 1, 1990 with respect to marketings in the months of September 1990 through February 1991.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Temporary Revision of Shipping Percentages and Cooperative Association Delivery Requirements: Issued June 19, 1990; published June 22, 1990 (55 FR 25617).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action provides greater assurance that an adequate supply of fresh fluid milk will be available to consumers.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the provisions of § 1036.7(f) of the order.

Notice of proposed rulemaking was published in the **Federal Register** (55 FR 25617) concerning a proposal to increase the shipping and delivery percentages for pool supply plants and pool plants operated by cooperative associations. An increase of 10 percentage points in such shipping requirements was proposed to be effective for an indefinite period beginning with the month of September 1990. The public was afforded the opportunity to comment on the proposal by submitting written data, views and arguments by July 23, 1990. Comments were received from several interested parties and they are dealt with in the following statement of consideration.

Statement of Consideration

This action increases by 5 percentage points the shipping and delivery percentages for pool supply plants and pool plants operated by cooperative associations. Similar increases applied during the months of November 1989–February 1990.

The higher standards adopted herein would apply for the months of September 1990–February 1991. Specifically, the pool supply plant shipping percentages would be increased from 40 to 45 percent for the months of September–November 1990, and from 30 to 35 percent for the months of December 1990–February 1991. Similarly, for the months of September 1990 through February 1991, the percentage of a cooperative association's member producer milk that must be shipped to distributing pool plants or to nonpool plants for Class I purposes if the plants operated by such cooperative are to be considered pool plants would be increased from 35 to 40 percent. A cooperative would be permitted to meet the higher delivery requirement on the basis of its deliveries in the current month or during the immediately preceding 12-month period.

Section 1036.7(f) of the Eastern Ohio-Western Pennsylvania milk order allows the Director of the Dairy Division to increase the order's shipping and delivery requirements by up to 10 percentage points for any month for which he finds that such an adjustment is necessary to obtain needed shipments of milk.

United Dairy, Inc., a proprietary handler who operates a pool distributing plant under the Eastern Ohio-Western Pennsylvania order, requested that the shipping and delivery percentages for pool supply plants and pool plants operated by cooperative associations be

increased beginning with the month of September 1990 so that distributing plant operators will be able to continue providing consumers with an adequate supply of fluid milk products. Proponent handler asked that the pooling standards be adjusted upward by the maximum allowable amount of 10 percentage points. The handler did not propose a specific date on which the higher standards should cease to apply.

Proponent receives the majority of its milk from Milk Marketing, Inc. (MMI), a cooperative association which is the primary supplier of raw milk pooled under Order 36. As it did in 1989, MMI recently informed proponent that the cooperative again would be unable to supply all of the handler's Class I fluid milk requirements. Proponent estimated that its supply shortfall would be as severe this year as it was last year and possibly could be worse. Since the handler has been unable to replace this milk on an economic basis with receipts from other sources, he requested this action.

Several interested parties responded to the notice which invited comments on the proposal to increase the minimum pooling standards for supply plants and plants operated by cooperative associations. There were wide differences of opinion as to whether the higher standards are warranted and, if so, for how long they should apply.

MMI and three distributing plant operators, Dean Dairy Products Company, Reiter Dairy, Inc. (a subsidiary of Dean Foods Company), and Hillside Dairy, Inc., supported the higher pooling standards proposed by United Dairy. United Dairy and the three distributing plant operators supporting United's request are primarily engaged in packaging fluid milk products, with a high percentage of their milk receipts from dairy farmers being used for Class I purposes. The handlers believe the temporary revision will make more of the market's local milk supplies available for their fluid processing operations. They argued that it is difficult, if not impossible, to replace or obtain additional milk in the months when the market's milk production is seasonally low because area processors manufacturing Class II and III products are not willing to make local supplies available to fluid milk plants. According to Reiter Dairy's comments, the scarcity of milk supplies last fall resulted in occasions when fluid milk packaging operations had to be delayed until additional supplies could be located.

The fluid milk dealers also stated that the action taken last year, which was not effective until November 3, caused them considerable economic distress during September and October because the revision was greatly needed at the beginning of the new shipping season on September 1. Dean and United also indicated that they have tried to arrange year-round supply relationships with manufacturing handlers, but have not been successful. They related that the manufacturing handlers generally are willing to sell milk to them in the fall months at high premium prices but discontinue all sales to fluid milk handlers in the spring when Class I prices fall seasonally, and have no interest in establishing long-term supply arrangements with such handlers.

MMI supported the request to increase the percentages of milk that pool supply plants must deliver to distributing plants on the basis that the demand for Class I milk is strong and milk production continues to decline. In these circumstances, according to the cooperative, there is a real need for higher performances standards for pooling supply plants under Order 36. The cooperative also took the position that the upward revisions in the performance standards for such plants are supported by the market's supply/demand conditions.

Three supply plant operators (Brewster Dairy, Inc., Miceli Dairy Products Company and Middlefield Cheese), who manufacture cheese from any milk that is not shipped to fluid milk plants, generally opposed the higher performance standards because requiring them to ship more of their milk supplies to fluid processors would leave less milk available for their manufacturing operations. These handlers argued that since only slightly more than one-half of the market's milk is being used for Class I purposes, there is plenty of milk available for fluid processing.

The three opposing handlers stated that the real issue in this particular situation is pricing, not pooling standards. In their comments, the handlers took the position that fluid processors would be able to obtain adequate milk for their packaging operations if they were willing to pay competitive prices. Certain of these market suppliers indicated that they had offered to sell milk to fluid milk handlers, including proponent, who refused to buy it apparently because the price was too high.

North Shore Milk Producers also objected to providing higher pooling standards and took the position that the request is an attempt by United Dairy to obtain milk for its plant at lower prices. The producer group argued that Order 36 milk supplies are lower now than in the recent past because milk is leaving Eastern Ohio-Western Pennsylvania market for alternative outlets which are paying higher prices. North Shore stated that a temporary increase in shipping standards will make Order 36 outlets less attractive and thereby further reduce the milk supplies available to the market.

Supply-demand conditions for the Order 36 market have tightened somewhat over the past two years. For instance, receipts of milk from producers during the first six months of 1990 are down 6.9 percent from the same period in 1988 and 1989. In that same 6-month period of 1990, Order 36 handlers used 52.9 percent of their receipts of milk from dairy farmers for Class I purposes, compared with 51.9 percent in 1989 and only 49.9 percent in 1988.

In view of the market's declining production and increasing percentage of producer milk used in Class I, upward revisions of the shipping percentages appear to be justified. However, based on the limited amount of increase in the Class I utilization percentage, an increase of 5 rather than 10 percentage points in the shipping standards for pool supply plants and delivery standards for pool plants operated by cooperative associations should be adequate. These higher pooling standards should divide the delivery obligations to fluid processors among the market's suppliers more fairly and equitably than those obligations are divided at present, without requiring supply plant operators to ship greater amounts of milk than are needed to meet the market's demand for fluid milk products.

Those persons commenting on the proposed revision differed as to the desirable length of the period for which the higher standards should apply. The fluid milk dealers who supported the higher pooling standards generally agreed that they should become effective on September 1 and apply through February 1991, if not longer. Hillside Dairy proposed that the upward revisions apply for a two-year period at which time they should be evaluated in terms of the market's prevailing supply-demand balance.

On the other hand, Brewster Dairy and North Shore Milk Producers asked that the action on this request be delayed until after the rulemaking proceeding which will begin on August 14 to consider proposals to change the performance standards for Order 36 pool supply plants so that the decision to revise such standards can be based on the evidence provided by interested parties at the hearing. Middlefield Cheese asked that the higher standards

not apply beyond December 15, 1990, and suggested that the appropriate minimum pooling standards for pool supply plants operated by proprietary handlers and cooperatives for each of the months of October, November and December 1990, be established on the 15th day of each preceding month.

Since a decision resulting from the rulemaking proceeding cannot be expected to be made in time to alleviate the market's tight supply-demand balance before it is expected to be particularly acute in September, when the new school year begins, it is appropriate to temporarily increase the shipping percentages by 5 percentage points for the months of September 1990-February 1991.

Accordingly, the pooling standards for supply plants and plants operated by cooperative associations are revised upward by 5 percentage points for the months of September 1990 through February 1991.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective on September 1, 1990.

List of Subjects in 7 CFR Part 1036

Milk marketing orders.

It is therefore ordered, that the following provisions of § 1036.7 (b) and (d) of the Eastern Ohio-Western Pennsylvania order are hereby revised for the months of September 1990 through February 1991.

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

1. The authority for 7 CFR part 1036 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

§ 1036.7 [Amended]

2. In § 1036.7(b), the provision "40" is revised to "45" and the provision "30" is revised to "35".

§ 1036.7 [Amended]

3. In § 1036.7(d), the provision "35" is revised to "40".

Signed at Washington, DC, on: August 22, 1990.

W.H. Blanchard,

Director, Dairy Division.

[FR Doc. 90–20239 Filed 8–27–90; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 11, 21, 23, 25, 33, 43, 45, and 91

[Docket No. 25613; Amdt. Nos. 11–34, 21–68, 23–40, 25–70, 33–14, 43–33, 45–20, and 91–218]

RIN 2120–AC62

Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action makes a correction to amendment numbers on a final rule published on August 10, 1990 (55 FR 32856). We inadvertently inserted the wrong amendment numbers for parts 25 and 43. This action corrects that mistake.

FOR FURTHER INFORMATION CONTACT: Harvey Van Wyen, Research and Engineering Branch (AEE–110), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–3558.

SUPPLEMENTARY INFORMATION:

History

This corrects two amendment numbers in the heading of a previously published document in the **Federal Register**, August 10, 1990 (55 FR 32856). The FAA would like to change the amendment numbers "25–70" to read "25–73" and "43–33" to read "43–32".

Clara Thieling,

Acting Manager, Program Management Staff, Office of Chief Counsel.

[FR Doc. 90–20194 Filed 8–27–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 90–ASW–17]

Alteration of VOR Federal Airway V–194; Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of VOR Federal Airway V–194 by extending that airway from Hobby, TX, to Scurry, TX. Currently, controllers are required to issue full route clearances to all aircraft proceeding to Dallas, TX, and Fort Worth, TX. This action designates a preferential route between these terminal areas reduces the verbiage required for an air traffic control clearance. This action reduces controller workload.

EFFECTIVE DATE: 0901 U.t.c., October 18, 1990.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On May 1, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the description of VOR Federal Airway V–194 by extending that airway from Hobby, TX, to Scurry, TX (55 FR 18123). Currently, controllers are required to issue full route clearances to all aircraft proceeding to Dallas, TX, and Fort Worth, TX. This action designates a preferential route between these terminal areas that would reduce the verbiage required for an air traffic control clearance. This action reduces controller workload. Interested parties were invited to participate in this rulemaking proceeding submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The rule

This amendment to part 71 of the Federal Aviation Regulation alters the

description of Federal Airway V–194 by extending that airway from Hobby, TX, to Scurry, TX. Currently, pilots proceeding from the Houston, TX, area to the Dallas/Fort Worth, TX, area via Scurry must receive a detailed air traffic control clearance. This airway becomes the preferential route between these terminals. Pilots operating through this area will receive a brief routing identifier which will indicate the preferential route to be followed. This action reduces controller workload.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V–194 [Amended]

By removing the words "From Hobby, TX, via" and substituting the words "From Scurry TX; College Station, TX; INT College Station 151° and Hobby, TX, 290° radials Hobby;"

Issued in Washington, DC, on August 17, 1990.

Harold W. Becker

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90–20195 Filed 8–27–90; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 701

[Secretary of the Navy Instruction 5211.5]

Availability of Department of the Navy Records and Publication of the Navy Documents Affecting the Public

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is deleting two exemption rules and amending one to reflect administrative changes in accordance with the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

EFFECTIVE DATE: August 28, 1990.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwen Aitken, Head, PA/FOIA Branch, Office of the Chief of Naval Operations (OP–09B30), Department of the Navy, The Pentagon, Room 5E521, Washington, DC 20350–2000. Telephone (202) 697–1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy deleted two exempt record systems (one on June 15, 1987, at 52 FR 22671 and the other on August 9, 1989 at 54 FR 32683) and is deleting the exemption rules for these record systems from its exemption rules found at 32 CFR part 701. At the same time, the Department of the Navy is also amending a subsection to reflect an administrative title change.

List of Subjects in 32 CFR part 701

Privacy.

For the reasons set forth in the preamble, 32 CFR part 701 is amended as follows:

PART 701—[AMENDED]

Subpart G—Privacy Act Exemptions

1. The authority citation for 32 CFR part 701, subpart G continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Section 701.119 is amended by removing and reserving paragraph (a) and by revising the heading of paragraph (m) as follows:

§ 701.119 Exemptions for specific Navy record systems.

(a) [Reserved]

* * * * *

(m) *Bureau of Medicine and Surgery*—

* * * * *

Dated: August 22, 1990.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–20109 Filed 8–27–90; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–90–60]

Special Local Regulations for Marine Events; Chesapeake Challenge; Chesapeake Bay, Sandy Point, MD

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Chesapeake Challenge Powerboat Race to be held in Chesapeake Bay, Sandy Point, Maryland, on September 13, 1990, and on September 15, 1990. These regulations will govern vessel activity during the races. The regulations are necessary due to the potential danger to waterway users, the confined nature of the waterway, and expected spectator craft congestion during the event.

EFFECTIVE DATES: The regulations are effective for the following periods:

9 a.m. to 6 p.m., September 13, 1990.

9 a.m. to 6 p.m., September 15, 1990.

If inclement weather causes the postponement of the event, the regulations are effective for the following periods:

9 a.m. to 6 p.m., September 14, 1990.

9 a.m. to 6 p.m., September 16, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen L. Phillips, Chief, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, (804) 398–6204.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Adherence to normal rulemaking procedures would not have been possible. Specifically, the sponsor's application to hold the event was not received until August 9, 1990, leaving insufficient time to publish a notice of proposed rulemaking in advance of the event.

Drafting Information

The drafters of this notice are QM1 Kevin R. Connors, project officer.

Boating Affairs Branch, Fifth Coast Guard District, and Captain Michael K. Cain, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

The Chesapeake Challenge Powerboat Association is the sponsor of this event. The event will consist of approximately 50 powerboats, ranging from 20 to 45 feet in length, racing on a designated course within the regulated area. The competition will continue for 5 hours. Races will start off Sandy Point State Park, run north to Baltimore Light (LLNR 7365), thence easterly to Upper Chesapeake Bay Lighted Buoy 3 (7665), thence southerly to Chesapeake Bay Channel Lighted Gong Buoy WR 81 (LLNR 7320), thence to the point of beginning.

The regulated area will encompass the race course and a 500-yard buffer zone around it. This area will be closed to waterborne traffic while each race is being started and when the race boats cross Craighill Channel in the vicinity of Baltimore Light. Since the race boats will clear the starting area and cross Craighill Channel very quickly, commercial traffic should not be disrupted severely.

Economic Assessment and Certification

These regulations are not considered either major under Executive Order 12291 on Federal Regulation or significant under Department of Transportation Regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Impact

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.c of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and has been placed in the rulemaking docket.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35–0560 is added to read as follows:

§ 100.35–0560 Chesapeake Bay, Sandy Point, Maryland.

(a) *Definitions*—(1) *Regulated area.* The waters of the Chesapeake Bay bounded by a line connecting the following points:

Latitude	*Longitude*
39°03'40.0" N	76°28'23.5" W.
39°05'54.0" N	76°17'46.0" W.
38°59'42.0" N	76°22'41.0" W.
38°59'42.0" N	76°23'42.0" W.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer who has been designated by the Commander, Group Baltimore.

(b) *Special local regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the immediate vicinity of this area shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(3) Any spectator vessel may anchor outside of the regulated area specified in paragraph (a)(1) of these regulations but may not block a navigable channel.

(c) *Effective period.* The regulations are effective for the following periods:

9 a.m. to 6 p.m., September 13, 1990.
9 a.m. to 6 p.m., September 15, 1990.

If inclement weather causes the postponement of the event, the regulations are effective for the following periods:

9 a.m. to 6 p.m., September 14, 1990.
9 a.m. to 6 p.m., September 16, 1990.

Dated: August 21, 1990.

H. B. Gehring,

Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District, Acting.

[FR Doc. 90–20166 Filed 8–27–90; 8:45 am]
BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD7–90–78]

Drawbridge Operation Regulations; St. Johns River, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: At the request of the State of Florida, the Coast Guard is temporarily changing the regulations governing the operation of three bridges across the St. Johns River at Jacksonville, Florida, the Main Street (US17) Bridge, mile 24.7, the Acosta (SR13) Bridge, mile 24.9 and the Fuller Warren (I10–I95) Bridge, mile 25.4, in order to improve the flow of peak morning commuter traffic. This action accommodates the needs of vehicular traffic and still provides for the reasonable needs of navigation.

EFFECTIVE DATES: These temporary regulations became effective on July 21, 1990 and will terminate on September 21, 1990.

ADDRESSES: Comments regarding this temporary change should be mailed to Commander (oan), Seventh Coast Guard District, Brickell Plaza Federal Building, 909 SE 1st Avenue, Miami, Florida 33131–3050. Any comments received will be available for inspection and copying in the office of the Bridge Administrator located in room 484, Brickell Plaza Federal Building, 909 SE 1st Avenue, Miami, Florida. Documents and comments concerning this regulation may be inspected Monday through Friday between the hours of 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Gary D. Pruitt (305) 536–4103.

SUPPLEMENTARY INFORMATION: Interested parties submitting written views, comments, data, or arguments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change to the temporary regulation.

Drafting Information

The drafters of this notice are Mr. Gary Pruitt, Bridge Administration Specialist, project officer, and

Lieutenant Commander D.G. Dickman, project attorney.

Discussion of Temporary Regulations

This temporary regulation changes only the morning regulated period on weekdays. The bridge presently opens on signal except that the bridge need not open from 7:30 a.m. to 8:30 a.m. Monday through Friday except federal holidays. The Coast Guard has determined that a shift of the existing morning regulated period one-half hour earlier at all three bridges will accommodate the change in morning automobile traffic. The problem with the change in peak traffic has been accentuated by revised travel patterns caused by the detour route in place due to the construction of the new Acosta Bridge. All other aspects of the existing regulations remain in full force and effect. Because this is a temporary regulation, it will not appear in the Code of Federal Regulations.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the temporary rulemaking does not have sufficient federalism implications to warrant the preparation of Federalism Assessment.

Economic Assessment and Certification

This temporary regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034: February 26, 1979). The economic impact of this temporary rule is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the temporary rule will not change the total amount of time these bridges are allowed to be maintained in the closed position. Since the economic impact of the proposal is expected to be minimal, the Coast Guard certifies that it does not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Regulations

In consideration of the foregoing, the Coast Guard has amended part 117 of title 33 Code of Federal Regulations as follows:

PART 117—[AMENDED]

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.325 is amended for the period between July 21 and September 21, 1990 by suspending paragraph (a) of § 117.325 and adding a new paragraph (c) to read as follows:

§ 117.325 St. Johns River.

* * * * *

(c) The draws of the Main Street (US17) Bridge, mile 24.7 the Acosta (SR13) Bridge, mile 24.9 and the Fuller Warren (I10–I95) Bridge, mile 25.4 all at Jacksonville, shall open on signal except that, from 7 a.m. to 8:30 a.m. and 4:30 p.m. to 6 p.m., Monday through Saturday except federal holidays, the draw need not be opened for the passage of vessels. The draws shall open at any time for vessels in an emergency involving life or property.

* * * * *

Dated: August 15, 1990.

Robert E. Kramek,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 90–19975 Filed 8–27–90; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–3825–6]

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency.

ACTION: Final amendment to final rule; correction.

SUMMARY: EPA is correcting an error in the final amendment which grants additional allowances to any person who uses controlled substances as a feedstock for other substances which appeared with other final amendments in the Federal Register on June 15, 1990 (55 FR 24490).

FOR FURTHER INFORMATION CONTACT: Mr. David Lee at (202) 475–7497.

SUPPLEMENTARY INFORMATION: EPA promulgated its final rule implementing the Montreal Protocol on Substances that Deplete the Ozone Layer on August 12, 1988 (40 CFR part 82). Final and technical amendments to this rule have appeared on July 5, 1989 (54 FR 28062), February 13, 1990 (55 FR 5007), and June 15, 1990 (55 FR 24490). One of the June 15, 1990 amendments contained an error which is corrected by this notice.

Dated: August 14, 1990.

Michael Shapiro,

Acting Assistant Administrator.

The following correction is made in FRL 3716–2, Final Amendment to the Final Rule; Protection of Stratospheric Ozone published in the Federal Register on June 15, 1990 (55 FR 24490).

PART 82—[CORRECTED]

* * * * *

§ 82.13 [Corrected]

1. On page 24496, third column, line 31, change "(h)" to "(i)".

* * * * *

[FR Doc. 90–20214 Filed 8–27–90; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 411

[BPD–458–CN]

RIN 0938–AD34

Medicare Program; Physician Liability on Non-Assigned Claims

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects technical errors in a final rule regarding physician liability on non-assigned claims published on June 18, 1990 at 55 FR 24561. Specifically, it—

(1) Corrects an incorrect statement in the preamble about the redesignation of a subpart of the CFR;

(2) Inserts four words, which were inadvertently omitted, into the regulations text;

(3) Corrects a typographical error in the regulations text; and

(4) Corrects an incorrect cross-reference in the regulations text.

EFFECTIVE DATE: July 18, 1990.

FOR FURTHER INFORMATION CONTACT: Gloria Dzingeleski (301) 966–4679.

SUPPLEMENTARY INFORMATION: We are making the following technical corrections to the final rule that was published in the Federal Register on June 18, 1990 (55 FR 24561).

1. On page 24561, column 3, the parenthetical sentence beginning in line 39 is revised to read as follows: "(Since that time, the portion of subpart C of part 405 in which we proposed to include the new provisions was redesignated; the correct cite in this final rule is § 411.408.)".

§ 411.408 [Corrected]

2. On page 24568, column 1, in the seventh line of § 411.408(a), the phrase

"for services otherwise covered" is inserted between the words "beneficiary" and "if".

§ 411.408 [Corrected]

3. On page 24568, column 2, in the heading of § 411.408(e), the word "know" is corrected to read "knew"

§ 411.408 [Corrected]

4. On page 24568, column 2, in § 411.408(e), "§ 411.206" is corrected to read "§ 411.406".

(Catalog of Federal Domestic Assistance Programs No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: August 17, 1990.

Neil J. Stillman,

Deputy Assistant Secretary for Information and Resources Management.

[FR Doc. 90–20209 Filed 8–27–90; 8:45 am]

BILLING CODE 4120–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6837]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, Federal Center Plaza, 500 C Street, Southwest, Room 417, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The Communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR part 59 et. seq.). Accordingly, the communities will be suspended on the effective date in the fourth column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**. In the interim, if you wish to determine if a particular community was suspended on the suspension date contact the appropriate FEMA Regional Office or the NFIP servicing contractors.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundry Map. The date of the flood map if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
REGION I—REGULAR CONVERSIONS				
Connecticut: Waterford, town of New London County.	090107	August 23, 1974, Emerg., February 4, 1981, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Sept. 5, 1990.
REGION II				
New York: Pittstown, town of Rensselaer County.	361166	May 30, 1975, Emerg., February 1, 1988, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
REGION III				
Pennsylvania:				
Beech Creek, township of Clinton County.	420321	June 3, 1974, Emerg., September 5, 1990, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
Burlington, borough of Bradford County.	420168	August 7, 1975, Emerg., September 5, 1990, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
Burlington, township of Bradford County.	421054	September 14, 1983, Emerg., September 5, 1990, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
Picture Rocks, township of Lycoming County.	420654	March 21, 1975, Emerg., September 5, 1990, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
South Creek, township of Bradford County.	421105	October 15, 1975, Emerg., September 5, 1990, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
South Philipsburg, borough of Centre County.	420271	November 13, 1975, Emerg., September 5, 1990, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
Wells, township of Bradford County	421121	October 10, 1974, Emerg., September 5, 1990, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
West Burlington, township of Bradford County.	421122	September 11, 1975, Emerg., September 5, 1990, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
Virginia:				
Charles City County	510198	October 20, 1975, Emerg., September 5, 1990, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
King and Queen County	510082	June 20, 1974, Emerg., September 5, 1990, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
REGION V				
Illinois: Columbia, city of Monroe County	170510	July 25, 1975, Emerg., September 5, 1990, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
Minnesota: Lake of the Woods County, Unincorporated Areas.	270654	July 19, 1974, Emerg., September 5, 1990, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
Wisconsin: Osseo, city of Trempealeau County.	550445	August 19, 1975, Emerg., September 5, 1990, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
REGION VI				
Louisiana: Caddo Parish, Unincorporated Areas.	220361	November 9, 1979, Emerg., September 5, 1990, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
REGION VII				
Missouri: New Madrid County, Unincorporated Areas.	290849	June 24, 1975, Emerg., September 5, 1990, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
REGION IX				
California:				
Calaveras County, Unincorporated Areas.	060633	April 9, 1986, Emerg., September 5, 1990, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
Tuolumne County, Unincorporated Areas.	060411	April 9, 1986, Emerg., September 5, 1990, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
Santa Barbara County, Unincorporated Areas.	060331	December 23, 1971, Emerg., March 15, 1979, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
Shasta County, Unincorporated Areas	060358	February 21, 1979, Emerg., September 27, 1985, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
REGION X				
Oregon: Lakeview, city of Lake County	410116	August 6, 1974, Emerg., November 16, 1982, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
Washington: Everett, city of Snohomish County.	530164	December 17, 1973, Emerg., April 3, 1978, Reg., September 5, 1990, Susp.	Sept. 5, 1990	Do.
REGION III				
Pennsylvania: Oley, township of Berks County.	420965	January 15, 1974, Emerg., September 14, 1990, Reg., September 14, 1990, Susp.	Sept. 14, 1990	Sept. 14, 1990.
REGION V				
Wisconsin: Sawyer County, Unincorporated Areas.	550591	September 9, 1976, Emerg., September 14, 1990, Reg., September 14, 1990, Susp.	Sept. 14, 1990	Do.
REGION VI				
New Mexico: Luna County, Unincorporated Areas.	350139	August 20, 1976, Emerg., September 14, 1990, Reg., September 14, 1990, Susp.	Sept. 14, 1990	Do.
REGION VII				
Kansas: Mulvane, city of Sumner and Sedgwick Counties.	200326	October 15, 1974, Emerg., September 29, 1978, Reg., September 14, 1990, Susp.	Sept. 14, 1990	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
REGION X				
Idaho:				
Bancroft, city of Caribou County	160040	June 24, 1975, Emerg., September 14, 1990, Reg., September 14, 1990, Susp.	Sept. 14, 1990	Do.
Canyon County, Unincorporated Areas.	160208	June 17, 1975, Emerg., September 28, 1984, Reg., September 14, 1990, Susp.	Sept. 14, 1990	Do.
Washington: Stevens County, Unincorporated Areas.	530185	July 24, 1975, Emerg., September 14, 1990, Reg., September 14, 1990, Susp.	Sept. 14, 1990	Do.
REGION V—MINIMAL CONVERSIONS				
Michigan: Rolland, township of Isabella County.	260422	April 24, 1989, Emerg., September 14, 1990, Reg., September 14, 1990, Susp.	Sept. 14, 1990	Do.
REGION VII				
Nebraska: Washington, village of Washington and Douglas Counties.	315496	April 4, 1986, Emerg., September 14, 1990, Reg., September 14, 1990, Susp.	Sept. 14, 1990	Do.

Code for reading fourth column: Emerg.—Emergency. Reg.—Regular. Susp.—Suspension.

Issued: August 20, 1990.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 90-20227 Filed 8-27-90; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-174]

Radio Broadcasting Services; Red Oak, IA, Falls City, NE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Montgomery County Broadcasting Co., Inc., substitutes Channel 237C3 for Channel 237A at Red Oak, Iowa, and modifies its license for Station KOAK-FM to specify operation on the higher powered channel. In order to accommodate Channel 237C3 at Red Oak, the Commission also substitutes Channel 267A for unoccupied and unapplied for Channel 237A at Falls City, Nebraska. *See* 55 FR 9340, published March 13, 1990. Channel 237C3 can be allotted to Red Oak in compliance with the Commission's minimum distance separation requirements and can be used at Station KOAK-FM's licensed transmitter site. Channel 267A can be allotted to Falls City without the imposition of a site restriction. The coordinates for Channel 237C3 at Red Oak are North Latitude 41-01-00 and West Longitude 95-12-46. The coordinates for Channel 267A at Falls City are North Latitude 40-03-39 and West Longitude 95-36-06. With this action, this proceeding is terminated.

DATES: Effective October 10, 1990. The window period for filing applications for Channel 267A at Falls City, Nebraska, will open on October 11, 1990, and close on November 13, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-174, adopted August 6, 1990, and released August 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments under Iowa, is amended by removing Channel 237A and adding Channel 237C3 at Red Oak. Section 73.202(b), the FM Table of Allotments under Nebraska, is amended by removing Channel 237A and adding Channel 267A at Falls City.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-20258 Filed 8-27-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-419; RM-6822]

Radio Broadcasting Services; Bunkie, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 282C3 for Channel 282A at Bunkie, Louisiana, and modifies the construction permit of Station KRBG(FM) to specify operation on the higher powered channel, at the request of Owensville Communications Company. *See* 54 FR 40893, October 4, 1989. Action taken here provides Bunkie with its first expanded FM service. A site restriction of 11.3 kilometers (7 miles) north of the city is required. The coordinates are 31-02-56 and 92-08-34. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 10, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-419, adopted August 6, 1990, and released August 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW.,

Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Louisiana, by removing Channel 282A and adding Channel 282C3 at Bunkie.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–20259 Filed 8–27–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–392; RM–6766]

Radio Broadcasting Services; Clinton and Varnado, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 224C2 for Channel 224A at Clinton, Louisiana, and modifies the license of Station WQCK(FM) to specify operation on the higher powered channel at the request of Hoffman Media of Louisiana. Also, Channel 225A is substituted for Channel 224A at Varnado, Louisiana, and the license of Bogue Chitto Communications Company for Station WBOX(FM) is modified to specify operation on Channel 225A. *See* 54 FR 39208, September 25, 1989. Channel 224C2 can be allotted to Clinton and Channel 225A can be allotted to Varnado in compliance with the Commission's minimum distance separation requirements and can be used at the respective station's licensed transmitter sites. The coordinates for Channel 224C2 at Clinton are 30–55–54 and 91–06–43. The coordinates for Channel 225A at Varnado are 30–54–10 and 89–57–36. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 10, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–392, adopted August 7, 1990, and released August 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Louisiana by removing Channel 224A and adding Channel 224C2 at Clinton, and by removing Channel 224A and adding Channel 225A at Varnado.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–20260 Filed 8–27–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–557; RM–7043]

Radio Broadcasting Services; Lumberton, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 237C2 for Channel 237A at Lumberton, Mississippi, and modifies the license for Station WLUN to specify operation on the higher class channel, in response to a petition filed by Stone-Lamar Broadcast Services Corporation. The coordinates for Channel 237C2 are 30–51–30 and 89–11–29. See 54 FR 51308, December 14, 1989.

EFFECTIVE DATE: October 10, 1990.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–557, adopted August 7, 1990, and released August 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by removing Channel 237A and adding Channel 237C2 at Lumberton.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–20261 Filed 8–27–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–511; RM–6941]

Radio Broadcasting Services; Shawano, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 257C3 for Channel 257A at Shawano, Wisconsin, and modifies the license for Station WOWN(FM), to specify operation on the higher class channel, in response to a petition filed by Wheeler Broadcasting, Incorporated. The coordinates for Channel 257C3 are 44–50–52 and 88–24–28. See 54 FR 48652, November 24, 1989.

EFFECTIVE DATES: October 10, 1990.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–511, adopted August 1, 1990, and released August 23, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets

Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by removing Channel 257A and adding Channel 257C3 at Shawano.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-20262 Filed 8-27-90; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 55, No. 167
Tuesday, August 28, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV-90-161]

Kiwifruit Grown in California; Proposed Rule to Revise Grade, Tray Weight and Inspection Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would require fresh shipments of California kiwifruit to meet a minimum grade requirement of a modified U.S. No. 1 grade (to be known as KAC No. 1 grade) rather than the current modified U.S. No. 2 grade. It would also reduce the recently established minimum weight requirement for Sizes 38 to 40 kiwifruit packed in trays from 7 to 6⅞ pounds. The minimum weight requirements would also be changed to provide that a simple average of the weight of the fruit packed in all sample trays taken from a given lot must meet the specified minimum net weight, rather than that the fruit packed in at least 90 percent of those sample trays must meet the minimum weight. Finally, this proposal would reduce the time period for which inspection certificates remain valid from January 15 of each year to December 1 of the previous year. These proposed actions would tend to result in better quality kiwifruit being provided to consumers, reduced packing costs, and more uniformity in tray-packed kiwifruit.

DATES: Comments must be received by September 27, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal to: Docket Clerk, Fruit and Vegetable Division, AMS, USAD, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the Office of the Docket Clerk during regular business hours. All comments should reference the docket number and the date and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone (202) 447–2020.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement and Marketing Order No. 920 (7 CFR part 920), regulating the handling of kiwifruit grown in California. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 100 handlers of California kiwifruit subject to regulation under the marketing order, and approximately 1,200 producers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of the producers and about 35 percent of the handlers of California kiwifruit may be classified as small entities.

Under the terms of the marketing order, fresh market shipments of kiwifruit are required to be inspected and are subject to grade, size, maturity, pack and container requirements. The handling requirements for fresh California kiwifruit are specified in 7 CFR 920.302 (50 FR 36568, September 9, 1985, as amended at 54 FR 41436, October 10, 1989, and 55 FR 5568, February 16, 1990). Current requirements include specifications that such shipments be at least Size 49 and contain a minimum of 6.5 percent soluble solids. Also included in the handling regulation are a minimum grade requirement and a number of pack and container requirements, including minimum net weight requirements for kiwifruit packed in trays.

At a meeting held on April 20, 1990, the Kiwifruit Administrative Committee (KAC), the agency responsible for local administration of the marketing order, recommended changes in the existing grade, tray weight and inspection requirements to become effective on or about October 1, 1990, when shipments of the 1990 crop are expected to begin.

Upon the basis of the KAC's recommendation, this rule proposes revising the current minimum grade requirement from a modified U.S. No. 2 to a KAC No. 1. This rule also proposes reducing the minimum weight requirement for Sizes 38 to 40 packed in trays from 7 to 6⅞ pounds. The minimum weight provisions would also be revised so that a simple average of the weight of the fruit packed in all sample trays taken from a given lot must meet the specified minimum net weifht rather than the fruit packed in at least 90 percent of the sample trays must meet the minimum weight. Additionally, this proposal would reduce the time period for which inspection certificates remain effective from January 15 to December 1 of each marketing season.

The current minimum grade requirement for fresh shipments of kiwifruit is a combination of the U.S. No. 1 and U.S. No. 2 grade requirements as set forth in the U.S. Standards for Grades of Kiwifruit (7 CFR 51.2335–51.2340) (U.S. Standards). The KAC recommended that the minimum grade established under the order be identified as a KAC No. 1 grade rather than the current modified U.S. No. 2 grade.

Most of the basic requirements of the U.S. No. 1 and U.S. No. 2 grades are the same, including specifications that the fruit be of similar varietal

characteristics, mature and carefully packed. The two basic grade requirements that differ relate to cleanness and shape. U.S. No. 1 grade fruit must be "clean" and "fairly well formed" whereas U.S. No. 2 grade fruit need only be "fairly clean" and "not badly misshapen".

The U.S. Standards also lists a number of grade defects, which include bruises, growth cracks and discoloration. While the listed defects are the same for the U.S. No. 1 and U.S. No. 2 grades, the allowable damage from these defects varies. The U.S. No. 1 grade requirement is that the fruit be free from damage by these defects, and an 8 percent allowance is provided for fruit which fails to meet the grade requirements. Includes in this 8 percent is a tolerance of 4 percent for defects causing serious damage including in the amount not more than 1 percent for fruit affected by internal brakedown or decay. The U.S. No. 2 grade requirement is less stringent, providing that the fruit must be free from serious damage by defects. A total of 8 percent is provided for fruit failing to meet the grade requirements. Therefore, U.S. No. 2 grade kiwifruit is provided twice the allowance for serious damage as is U.S. No. 1 grade fruit.

The current minimum grade requirement for California kiwifruit is a U.S. No. 2, but the allowances for defects are limited to those provided under the U.S. No. 1 grade. Hence, aside from the basis grade requirements relating to cleanness and shape, the current minimum grade requirement is comparable to a U.S. No. 1 grade. The KAC therefore unanimously recommended that the specified minimum grade requirement be changed to a KAC No. 1. This change would reflect the fact that the current minimum grade requirement is closer to a U.S. No. 1 grade than a U.S. No. 2 grade. All grade requirements would be those of the U.S. No. 1 grade, except that relating to shape, which would still be the U.S. No. 2 grade requirement. The only requirement that would differ from those currently in effect is related to cleanness. California kiwifruit would be required to be "clean" as a result of this action rather than only "fairly clean."

By far, the majority of kiwifruit shipped from California exceeds the current minimum grade requirement. During the 1989–90 season, 46 percent of total kiwifruit shipments was U.S. Fancy grade and 50 percent was U.S. No. 1 grade. Only 4 percent graded only modified U.S. No. 2, primarily due to misshapen fruit. This proposed action should therefore have a minimal impact on the volume of kiwifruit that may be shipped to fresh markets. The KAC believes that this change would benefit growers and shippers by more accurately classifying the minimum quality of kiwifruit shipped from the production area.

About 65 percent of the 1989 kiwifruit crop was shipped to fresh market in trays. Trays used to pack kiwifruit have cell compartments to hold individual pieces of fruit. All standard trays have the same dimensions, and the number of cell compartments varies according to the size of the fruit being packed. The size of the fruit packed in these containers is denoted by count, i.e., the number of pieces of fruit packed in the tray. There are currently 17 sizes packed in trays, ranging from Size 49 (the smallest size permitted to be shipped) to Size 21. The most prevalent sizes are 36, 39 and 42 which in 1989–90 accounted for about 82 percent of the trays packed.

On October 10, 1989, kiwifruit packed in trays became subject to minimum net weight requirements for the first time. The established minimum net weights vary with the size of the fruit packed, with the smallest fruit subject to the lowest specified minimum net weight. For example, fruit of Size 44 or smaller packed in trays is required to weigh at least 6½ pounds per tray, and fruit of Size 34 and larger must weigh at least 7½ pounds per tray. These net weight requirements were established to eliminate the wide variances that previously existed in the weight of fruit packed in trays and any resulting buyer dissatisfaction.

This rule proposed reducing the specified minimum net weight for Sizes 38 to 40 from 7 to 6⅞ pounds. The KAC reports that problems have been encountered during the current season by shippers packing these sizes, which accounted for 31 percent of the trays packed. Such shippers have had difficulty in meeting the 7 pound minimum net weight requirement. According to the KAC's 1989–90 weight study, kiwifruit in this size category lost an average weight of about 0.13 pounds per tray during storage, more than most other size classifications. In order to reduce the risk of failing to meet the minimum net weight requirement, some shippers may have been "overstuffing" trays of Sizes 38 to 40 kiwifruit. That is, they pack several oversized pieces of fruit in each tray to ensure meeting the specified minimum net weight of 7 pounds. This practice could reduce the uniformity of the kiwifruit packed in trays. It also may result in a reduction of the quality of the packed fruit, since oversized kiwifruit placed in cell compartments are more susceptible to bruising during handling.

The KAC recommended reducing the specified minimum net weight for Sizes 38 to 40 kiwifruit by one-eighth of a pound to reduce the risk of such fruit failing to meet the established minimum net weight requirement. This action should also reduce any such practice of overstuffing which would tend to increase fruit quality and the uniformity of tray-packed fruit.

In applying the minimum net weight requirements for tray-packed kiwifruit, the Federal-State Inspection Service pulls a number of sample trays from each lot being inspected in accordance with its inspection procedures. Thus, not all tray-packed fruit is weighed; only that fruit which is packed in the sample trays is weighed.

When the minimum net weight requirements first became effective in October 1989, they specified that the kiwifruit packed in at least 90 percent of the sample trays taken from each lot had to meet the applicable specified minimum net weight. This tolerance was provided to allow for reasonable variations that occur in kiwifruit packing operations, while maintaining the objective of standardizing the weight of fruit packed in trays.

The KAC subsequently met on November 21, 1989, and unanimously recommended relaxing the minimum net weight tolerance for kiwifruit packed in trays for the remainder of the 1989–90 season. This change, which became effective on February 16, 1990, provided that kiwifruit packed in only 80 percent of the sample trays taken from each lot had to meet the specified minimum net weight.

Kiwifruit grown in California is typically harvested in late September or early October. The fruit is packed shortly after harvest and placed into storage until shipment. The shipping season generally extends through the following May.

About 55 percent of the harvested fruit is inspected as it is being packed, prior to storage. While the majority of fruit is inspected prior to storage, some handlers have their fruit inspected after storage just prior to shipment. Because of potential weight changes during storage, such handlers were uncertain as to whether their packed fruit would be able to meet the established minimum net weight requirements. This was the reason the tolerance for underweight kiwifruit packed in trays was doubled for the remainder of the 1989–90 season.

The KAC has now recommended that the tray weight requirements be revised to provide that a simple average of the

weight of kiwifruit packed in all sample trays taken from a given lot be required to meet the specified minimum net weight. The KAC reports that few kiwifruit shippers are experiencing difficulty meeting the minimum tray weight requirements with the 20 percent underweight allowance during the 1989–90 season. This is primarily due to the fact that some shippers may choose to overstuff trays rather than risk failing to meet the weight requirements. As previously indicated, this practice can result in reduced fruit quality and a lack of uniformity in tray-packed fruit. For example, the KAC's weight survey results for 1989–90 shows that Size 39 kiwifruit packed in trays (with a specified minimum net weight of 7 pounds) ranged in weight from 6.50 to 8.06 pounds. Likewise, Size 42 kiwifruit (with a minimum of 6.75 pounds) ranged from 6.44 to 7.94 pounds. Hence, the practice of overstuffing appears to have resulted in a lack of uniformity in the sizes packed in trays, contrary to the objective of the minimum net weight requirements.

The KAC believes that using the average weight of fruit packed in all sample trays should also reduce any such practice of overstuffing.

As previously indicated, kiwifruit may be packed and inspected well in advance of the time it is shipped, because kiwifruit is perishable and may deteriorate in quality during storage, a limit has been established on the length of time for which an inspection certificate is valid. Currently, inspection certificates are valid until January 15 of the marketing season or 21 days from the date of inspection, whichever is later. The KAC unanimously recommended that this requirement be revised to provide that such certificates be valid only until December 1 of the applicable marketing season or for 21 days whichever is later.

The current January 15 date was established in 1985. At that time, it appeared that kiwifruit harvested in October maintained its quality throught the following mid-January. Recent problems with black sooty mold have resulted in the KAC revaluating this position.

Black sooty mold occurs on stored kiwifruit that has had its exterior exposed to kiwifruit juice. The juice is not noticeable during packing or inspection, but subsequently becomes a medium for the growth of black sooty mold which usually first appears three to four weeks after packing.

The current January 15 date allows kiwifruit that has been packed and inspected up to 3½ months earlier (i.e., in early October) to be shipped without being reinspected. The KAC is concerned that often kiwifruit is shipped prior to the January 15 expiration date of the inspection certificate, but after this mold may have contaminated the fruit. Reducing the time period during which inspection certificates are valid and requiring a second inspection on shipments made after December 1 should reduce the occurrence of black sooty mold on kiwifruit shipped to fresh markets. This action would provide that kiwifruit could be inspected a maximum of about two months before shipment, since kiwifruit harvest and packng typically begins in October.

Reducing the time period during which inspection certificates remain valid could result in additional inspection costs to kiwifruit handlers. However, the KAC believes these costs would be more than offset by increased sales resulting from higher quality kiwifruit being provided to consumers.

Based on the above, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments received within the comment period will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 920 be amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

Authority: Sections 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 920.302 is amended by revising paragraphs (a)(1), (a)(4)(ii) and (b)(1) to read as follows:

§ 920.302 Handling regulation.

* * * * *

(a)(1) *Grade requirements.* Fresh shipments of kiwifruit shall grade at least KAC No. 1.

* * * * *

(4) * * *

(ii) Kiwifruit packed in containers with cell compartments cardboard fillers or molded trays shall be of proper size for the cells, fillers or molds in which they are packed. Such fruit shall be fairly uniform in size. When packed in closed containers the size shall be indicated by making the container with the numerical count, and the contents shall conform to the marked count. The fruit packed in such containers shall meet the following minimum weight requirements at the time of initial inspection:

Size designation of fruit	Minimum net weight of fruit (lbs.)
34 or larger	7.5
35 to 37	7.25
38 to 40	6.875
41 to 43	6.75
44 and smaller	6.50

The average weight of all sample units in a lot must meet the specified minimum net weight, but no sample unit may be more than ¼-pound or 4 ouches less than such weight.

* * * * *

(b) *Definitions.* (1) The term "KAC No. 1" means the same as "U.S. No. 1" as defined in the United States Standards for Grades of Kiwifruit (7 CFR 51.2335 through 51.2340), except that kiwifruit grading KAC No. 1 shall be subject to the basic requirement of the U.S. No. 2 grade that the kiwifruit be "not badly misshapen." The terms "fairly uniform in size" and "diameter' mean the same as defined in the U.S. Standards for Grades of Kiwifruit.

* * * * *

3. Section 920.155 is revised to read as follows:

§ 920.155 Inspection requirement.

Certification of any kiwifruit which is inspected and certified as meeting grade, size, quality, or maturity requirements in effect pursuant to § 920.52 or § 920.53 during each fiscal year shall be valid until December 1 of such year or 21 days from the date of inspection, whichever is later.

Dated: August 22, 1990.

Robert C. Keeney,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 90-20235 Filed 8-27-90; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1079

[DA-90-029]

Milk in the Iowa Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain provisions of the Iowa Federal milk marketing order for the months of September through November 1990. The proposed suspension would increase the amount of milk not needed for fluid use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The action was requested by Associated Milk Producers, Inc. (AMPI), a cooperative association that represents producers who supply the market. In addition, since these provisions have been suspended during the last six years, comments are being requested on whether the provisions should be suspended during September through November for an indefinite period.

DATES: Comments are due no later than September 4, 1990.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building. P.O. Box 96456, Washington, DC 20090–6456, (202) 447–2089.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This proposed rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the suspension of the following provisions of the order regulating the handling of milk in the Iowa marketing area is being considered for September through November:

In § 1079.13(d) (2) and (3), the words "50 percent in the months of September through November and," and the words "in other months," as they appear in each such paragraph.

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building. P.O. Box 96456, Washington, DC 20090–6456, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include September 1990 in the suspension period.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would allow more than 50 percent of a handler's producer milk receipts to be moved directly from farms to nonpool plants (diverted) and still be priced under the order during the months of September–November. The proposal was submitted by Associated Milk Producers, Inc. (AMPI), a cooperative association that represents producers who supply the market. AMPI maintains that the diversion limitations need to be relaxed, by a suspension action, to avoid the costs associated with receiving and transferring milk solely for the purpose of pooling the milk of dairy farmers who have historically supplied the market.

AMPI contends that the action is necessary because of the relationship between available milk production and fluid milk sales. AMPI points out that producer milk receipts during the first six months of 1990 are up about 4 percent from the previous year while fluid milk sales are at about the same level as a year earlier. As a result, the Class I utilization of producer milk for the first six months was about 26 percent, down slightly from the previous year. Consequently, AMPI projects that about 30 percent of the market's milk supply will be needed for Class I use during the September–November period this year. Thus, about 70 percent of the market's milk supply will be available for manufacturing uses, which AMPI contends can be most efficiently handled by diverting milk directly from farms to nonpool plants for processing. Absent a suspension action, AMPI maintains that the costly and inefficient marketing practices of receiving and transferring milk from pool plants would be undertaken to continue to pool the milk of dairy farmers who supply the market.

These provisions have been suspended during each of the last six years. In view of this history, interested parties are being invited to submit comments on whether the provisions should be suspended during September through November for an indefinite period.

List of Subjects in 7 CFR Part 1079

Milk marketing orders.

The authority citation for 7 CFR part 1079 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Signed at Washington, DC, on August 22, 1990.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 90–20236 Filed 8–27–90; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 90–ASW–22]

Proposed Establishment of Control Zone: Ruidoso, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws the Notice of Proposed Rulemaking (NPRM) which proposed to establish a control zone at Ruidoso, NM. The NPRM is being withdrawn as a result of the closure of the part-time nonfederal airport traffic control tower (ATCT) at the Sierra Blanca Airport, Ruidoso, NM.

DATES: August 28, 1990.

FOR FURTHER INFORMATION CONTACT: Mark F. Kennedy, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530; telephone: (817) 624–5561.

SUPPLEMENTARY INFORMATION:

The Proposed Rule

On May 9, 1990, a Notice of Proposed Rulemaking was published in the **Federal Register** to establish a control zone at Ruidoso, NM (55 FR 19274). The Sierra Blanca Airport met the criteria for the establishment of a control zone. A part-time nonfederal ATCT was operating at the Sierra Blanca Airport, and federally certified weather observers were available to take hourly and special weather observations during

the times the proposed control zone would be in effect.

The FAA has received documentation stating that the part-time nonfederal ATCT at the Sierra Blanca Airport will be deactivated effective September 30, 1990.

Conclusion

In consideration of the aforementioned documentation, the Sierra Blanca Airport does not meet the criteria for establishment of a control zone. Therefore, action to establish the Ruidoso, NM, control zone is unnecessary.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Withdrawal of Proposed Rule

Accordingly, pursuant to the authority delegated to me, Airspace Docket No. 90–ASW–22, as published in the Federal Register on May 9, 1990 (55 FR 19274), is hereby withdrawn.

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

Issued in Fort Worth, TX on August 13, 1990.

Larry L. Graig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 90–20197 Filed 8–27–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 77

[Docket No. 26305; Notice No. 90–19]

RIN 2120–AA09

Objects Affecting Navigable Airspace; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to NPRM.

SUMMARY: This action makes a correction to a notice number on a Notice of Proposed Rulemaking published on August 3, 1990 (55 FR, 31722). We inadvertently inserted the wrong Notice Number. This action corrects that mistake.

FOR FURTHER INFORMATION CONTACT: William C. Davis, Air Traffic Rules Branch, Airspace-Rules and Aeronautical Information Division, Office of Associate Administrator for Air Traffic, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20691; telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

This document corrects the Notice number in the heading of a previously published document in the Federal Register August 3, 1990, (55 FR, 31722). The FAA would like to change the Notice number "90–18" to read "90–19".

Clara Thieling,

Acting Manager, Program Management Staff, Office of Chief Counsel.

[FR Doc. 90–20196 Filed 8–27–90; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IL–070–90]

RIN 1545–AP01

Tax Issues Relating to Global Trading of Financial Instruments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice solicits written comments from the public about issues to be addressed by proposed regulations under sections 482, 864, and other sections of the Internal Revenue Code of 1986.

The Internal Revenue Service intends to clarify and update the regulations under sections 482, 864, and other sections in order to address the taxation issues raised by global trading of financial instruments. Commentators are requested to suggest unilateral and multilateral measures that might be adopted to improve the existing rules.

All material submitted will be available for public inspection and copying.

DATES: Written comments concerning the tax issues relating to global trading of financial instruments should be submitted by December 31, 1990.

ADDRESSES: Send comments (preferably nine copies) to Internal Revenue Service, P.O. Box 7604, Ben Franklin Station Att'n: CC:CORP:T:R, room 4429, (INTL–070–90), Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Charles T. Plambeck, 202–566–6284 (not a toll-free number).

Steven R. Lainoff,

Associate Chief Counsel (International).

[FR Doc. 90–20147 Filed 8–27–90; 8:45 am]

BILLING CODE 4830–01–M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 706]

RIN 1512–AA07

Virginia's Eastern Shore Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms proposes to establish a viticultural area located on the Virginia portion of the Delmarva Peninsula to be known by the appellation "Virginia's Eastern Shore." The proposal is the result of a petition filed by Accomack Vineyards of Painter, Virginia. ATF believes that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify the wines they purchase. The establishment of viticultural areas also allows wineries to further specify the origin of wines they offer for sale to the public.

DATES: Written comments must be received by October 12, 1990.

ADDRESSES: Send written comments to: Chief, Wine, and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385 REF: Notice No. 706.

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Reading Room, Disclosure Branch, room 4412, Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT: Marjorie Dundas, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, room 6237, 1200 Pennsylvania Avenue NW., Washington, DC 20226, (202) 566–7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR, part 4. These regulations allow the establishment of definite American viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and

advertising of wine. On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas. Section 4.25a(e)(1), title 27 CFR defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2), title 27 CFR outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy or copies of the appropriate U.S.G.S. map(s) with the proposed boundaries prominently marked.

Petition

ATF received a petition proposing a viticultural area on the Virginia portion of the Delmarva Peninsula to be known as Virginia's Eastern Shore. The proposal was submitted by Mr. James D. Keyes, owner of the only bonded winery in the proposed viticultural area, Accomack Vineyards, which was established in 1987. The proposed viticultural area is located in two Virginia counties, Accomack and Northampton, with a land area of approximatley 682 square miles or 436,480 acres. There are three vineyards in the proposed viticultural area with approximately 33 acres of wine grapes.

Evidence of Name

The petitioner asserts that the name Eastern Shore is used in referring to the Delmarva Peninsula, the large peninsula located along the coasts of Delaware, Maryland and Virginia. The narrow, 75 mile long end of the peninsula which is in Virginia is bordered on the west by the Chesapeake Bay and on the east by the Atlantic Ocean. The two United States Department of Agriculture reports, dated 1920 and 1987, which the petitioner submitted both refer to the area as the Eastern Shore, and some of the weather data for the area was gathered at the Eastern Shore Agricultural Experiment Station, in Painter, Virginia. The proposed area is referred to as "Virginia's Eastern Shore" in travel books, such as Adventuring in the Chesapeake Bay Area, by John Bowen, and Bay & River Public Access Guide, produced by the Public Access Task Force Committee. The Virginia Wineries 1990–1991 Festival & Tour Guide refers to Accomack Vineyards as "Virginia's only Eastern Shore Winery."

Proposed Boundary

The proposed boundary follows the coastline of the southern portion of the Delmarva Peninsula, but excludes the marshy coastal areas and the coastal islands. The petitioner quoted a U.S.D.A. report which says "the mainland" (as opposed to the coastal islands and the salt marshes) "contains practically all of the cultivable, productive soils of the region."

Distinguishing Features

The petitioner provided the following evidence relating to features which the petitioner contends distinguish the proposed viticultural area from the surrounding areas:

Climate

The main factor which influences the climate of the proposed area is the presence of large bodies of water on both sides of the 6 to 8 mile wide peninsula. The Atlantic Ocean to the east and Chesapeake Bay to the west provide a moderating influence on temperature within the proposed viticultural area which is not shared by the remainder of Virginia or by the wider portion of the peninsula in Maryland and Delaware to the north. The maximum range of temperature at Wachapreague, in the proposed area, is 95 degrees F. This may be contrasted with the maximum range of 100 degrees F. at Norfolk, VA, to the southwest of the proposed area, and 105 degrees F. at Pocomoke City, MD, to the north of the proposed area. The latest spring frost recorded within the proposed area was on April 11, at Eastville, and the earliest autumn frost was recorded on October 28, in Wachapreague. Just outside the proposed area, Norfolk, VA, has had frosts as late as April 26 in the spring and as early as October 15 in the fall, and Pocomoke City, MD, had its latest spring frost on May 25 and its earliest autumn frost on September 23.

The maritime influence is also responsible to breezes which provide air circulation "desirable to minimize fungus problems with the fruit" in the humid summer. The mean annual rainfall in the proposed area, 39.2 inches at Eastville and 37.89 inches at Wachapreague, is similar to that at Pocomoke City to the north (39.59 inches), but substantially less than at Norfolk (49.54 inches). The petitioner stated that the months of heaviest rain are July and August.

Topography

Much of the proposed area lies between 25 and 45 feet above sea level. No point is higher than 50 feet, and the terrain is flat or gently sloping. Despite this, the area is fairly well drained by numerous creeks and streamlets, and by the porous material which underlies the soils. By contrast, the Virginia shoreline on the western side of the Chesapeake Bay rises above 50 feet rapidly, and the terrain is more irregular.

Soils

The U.S.D.A. identified two main soil associations in the proposed area, the Bojec-Munden-Molena association, found on the slopes and ridges of the peninsula, and the Nimmo-Munden-Dragston association, found in flatter areas and depressions. Both are mixtures of sandy and loamy soils. The petitioner did not present any evidence concerning the soils to the north in Maryland. ATF is interested in any comments concerning the soils in the region to the north and whether they differ from those within the proposed viticultural area.

Executive Order 12291

It has been determined that this document is not a major regulation as defined in E.O. 12291 because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required because the proposal, if promulgated as a final rule, is not expected (1) to have significant

secondary or incidental effects on a substantial number of small entities, or (2) to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96–511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this notice because no requirement to collect information is proposed.

Public Participation

ATF requests comments from all interested persons concerning this proposed viticultural area. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date. ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of the person submitting a comment is not exempt from disclosure. Any interested person who desires an opportunity to comment orally at a public hearing on the proposed regulations should submit his or her request, in writing, to the Director within the 45-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Drafting Information

The principal authors of this document are James A. Hunt and Marjorie Dundas, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, Wine.

Issuance

Title 27, Code of Federal Regulations, part 9, American Viticultural Areas is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The table of sections in subpart C is amended to add the title of § 9.135 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.135 Virginia's Eastern Shore.

Par. 3. Subpart C is amended by adding § 9.135 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.135 Virginia's Eastern Shore.

(a) *Name.* The name of the viticultural area described in this section is "Virginia's Eastern Shore."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the "Virginia's Eastern Shore" viticultural area are 3 U.S.G.S. Quadrangle (1:250,000 Series) maps. They are titled:

(1) Eastville, VA.; N.C.; MD., 1946 (revised 1969)

(2) Salisbury, MD.; DEL.; N.J.; VA., 1946 (revised 1969)

(3) Richmond VA.; MD., 1973

(c) *Boundary.* The Virginia's Eastern Shore viticultural area is located in Accomack and Northampton counties, Virginia. The boundary is as follows:

(1) The beginning point is the intersection of the Virginia/Maryland border and Chincoteague Bay, near Greenbackville on the Salisbury, MD., U.S.G.S. map;

(2) From the beginning point, the boundary follows the coastline in a southwesterly direction. Where there are marshes indicated on the U.S.G.S. maps, the boundary is the inland side of these marshes;

(3) When the boundary reaches the southernmost point of the peninsula, on the Eastville, VA., U.S.G.S. map, the boundary turns and proceeds in a northwesterly direction, again following the coastline around Cherrystone Inlet on the Richmond, VA, U.S.G.S. map;

(4) The boundary continues to follow the coastline and the inland side of any marshes indicated on the U.S.G.S. maps in a northeasterly direction, until it reaches the Virginia/Maryland border on the Eastville, VA., U.S.G.S. map;

(5) The boundary then follows the Virginia/Maryland border back to the beginning point at Chincoteague Bay on the Salisbury, MD., U.S.G.S. map.

Approved: August 20, 1990.

Stephen E. Higgins,

Director.

[FR Doc. 90–20151 Filed 8–27–90; 8:45 am]

BILLING CODE 4810–31–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 11–90–03]

Proposed Temporary Drawbridge Operation Regulations; Cerritos Channel, Los Angeles/Long Beach Harbor, Long Beach, CA

AGENCY: U.S. Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of Port of Los Angeles, the Coast Guard is considering a temporary change to regulations for the Henry Ford Avenue Railroad Bridge, across Cerritos Channel of Los Angeles/Long Beach Harbor, mile 4.4, at Long Beach, California, by authorizing a six-and-a-half month closure of the bridge for its rehabilitation. The proposed closure would start February 1, 1991 and conclude on August 15, 1991. The bridge, also known as the Badger Avenue Bridge, currently remains open to navigation except for the passage of trains. This proposal is being made because the sixty-eight-year-old historic bridge needs extensive repair to keep it in service. This action should still provide for the reasonable needs of navigation.

DATES: Comments must be received on or before October 12, 1990.

ADDRESSES: The comments should be mailed to Commander, Eleventh Coast Guard District, Building 10, Coast Guard Island, Alameda, California 94501–5100. The comments and other materials referenced in this notice will be available for inspection and copying at Building 10, Coast Guard Island, Alameda, California. Normal office hours are between 7 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Jerry Olmes, Bridge Administrator, at the address above, telephone (415) 437–3515.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names

and addresses, identify this notice by NPRM docket number or applicable subject matter, and the specific section to which their comments apply. Comments should also include reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eleventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Jerry P. Olmes, project officer, and Lieutenant Commander J.J. Jaskot, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Proposed Regulation

The Ford Avenue Railroad Bridge is a double-leaf bascule, railroad bridge constructed in 1922. In the closed position, the bridge provides vertical clearance of 14 feet above Mean Lower Low Water (9 feet above Mean High Water) and horizontal clearance of 180 feet between fenders. The waterway is a connecting channel in the Los Angeles/Long Beach Harbor complex and is used by oceangoing cargo ships, tugs and barges, tour boats, commercial fishing vessels, and recreational boats. The Port of Los Angeles has requested a bridge closure to conduct necessary repairs while maintaining essential rail service over the bridge. The bridge provides the only rail access to Terminal Island. Vessel operators should be able to adjust shipping schedules during the closure period since there is an alternate water route via the outer harbor. The Port proposal limits the repair period to the shortest time feasible. They will work three shifts, seven days a week to minimize the closure. Using a normal work schedule would have required a closure of eleven months.

Several alternatives to this project were examined. Removing the existing bridge and rebuilding it is feasible, but it is not prudent because it would not preserve the historical integrity of the bridge. This action would not be consistent with the objectives of the National Historic Preservation Act or the Department of Transportation Act. A project to build a new bridge and retain the existing bridge would not be economically feasible, since it would include operation and maintenance costs for both bridges in addition to the construction costs for a new bridge. The do nothing alternative is not prudent because it would not meet the Port's alternatives for long-term rail access, or the Port's obligations to waterway users. Even with periodic maintenance the bridge is likely to be out of service more frequently as it ages. At some point in time the bridge must be rehabilitated or replaced. A closure of the bridge for rehabilitation is inevitable. Delaying the project is likely to result in increased costs and a longer closure period to rehabilitate the bridge in the future.

Regulatory Evaluation

This proposed rule is considered to be non-major under Executive Order 12291 and non-significant under Department of Transportation (DOT) regulatory policies and procedures (44 FR 11034; February 26, 1979).

A draft regulatory evaluation has been prepared and placed in the rulemaking docket. It may be inspected and copied at the address listed under **ADDRESSES.** Copies may also be obtained by contacting Jerry Olmes, Bridge Administrator, at the address above, telephone (415) 437–3515.

To minimize impacts to the maritime community, the applicant plans to work 3 shifts a day, 7 days per week to complete the rehabilitation in 6½ months. The overtime work schedule would increase overall project costs approximately $2.2 million to a total of $20.2 million. The applicant anticipates that if the contractor were required to work only a standard 40-hour work week, they would need approximately 11 months to complete work. Increased costs to the marine community are estimated to be approximately $750,000 due to detours during a 6½-month closure. These costs include delay and operational costs for commercial tug, cruise vessel and recreational vessel detours. Increased costs to the mariner for an 11-month closure are estimated to be approximately $1.3 million. Costs to the mariner are nearly doubled for an 11-month closure; for the applicant, costs decrease by approximately 10%. No impacts would result to small businesses.

Based on information in the draft evaluation, the Coast Guard certifies that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

The rehabilitation will insure long-term rail and waterway access in the port. The work schedule will minimize adverse impacts to both transportation modes and continue essential port services. The potential benefits to society outweigh the costs to society. However, before these temporary regulations are finalized, the economic impact may be re-evaluated are finalized, the economic impact may be re-evaluated based upon comments received. Anyone who believes their business will suffer as a result of this proposal is requested to document the problem in their comments.

Regulatory Flexibility Act

Based on information in the draft regulatory evaluation, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this rule if adopted, will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no information collection or record keeping requirements.

Federalism Implications

This proposal has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has prepared a draft environmental assessment and a draft section 106 and section 4(f) Statement for this project. These documents have been placed in the rulemaking docket. The documents may be inspected and copies at the address listed in the **ADDRESSES** section of this notice. As designed, the project will have no significant impacts on the quality of the human environment. Pending a review of the draft environmental assessment, the Coast Guard plans to prepare a Finding of No Significant Impact for this project. The Coast Guard has concluded

in the draft section 106 and 4(f) Statement, that there will be no adverse effect on this historic bridge; and there is no feasible and prudent alternative to the use of the historic property; and that all possible planning to minimize harm to this property has been accomplished.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, the Coast Guard purposes to amend part 117 of title 33, Code of Federal Regulations as follows:

PART 117 DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 117.147 is amended by redesignating paragraph (b) as paragraph (b)(1) and adding a new paragraph (b)(2) to read as follows:

§ 117.147 Cerritos Channel.

* * * * *

(b) * * *

(2) During the period February 1, 1991 through August 15, 1991 the bridge will be undergoing repairs and the draw need not open for the passage of vessels.

* * * * *

Dated: August 17, 1990.

M.E. Gilbert,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 90–19950 Filed 8–27–90; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

52 CFR Part 227

Listing of Steller Sea Lions as Threatened Under the Endangered Species Act

AGENCY: National Marine Fisheries Service (NMFS) NOAA, Commerce.

ACTION: Advance notice of proposed rulemaking and request for comments; extension of comment period.

SUMMARY: In an advance notice of proposed rulemaking (55 FR 29792, July 20, 1990), NMFS is requesting comments to assist in developing a proposed rule that will consider the designation of critical habitat and a broader range of conservation measures. NMFS invited comments on the advance notice of proposed rulemaking from all interested parties on or before August 20, 1990. This comment period is being extended for an additional thirty days from August 20, 1990.

DATES: Comments must be received by September 20, 1990.

ADDRESSES: Comments should be mailed to Dr. Nancy Foster, Director, Office of Protected Resources (F/PR), NMFS, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Dr. Charles Karnella, Chief, Protected Species Management Division, Silver Spring, MD, 301–427–2322.

SUPPLEMENTARY INFORMATION: In response to a petition from 18 environmental organizations, NMFS published an emergency interim rule (55 FR 12645 April 5, 1990) listing the Steller sea lion as a threatened species under the Endangered Species Act and establishing conservation regulations as emergency interim measures to begin the population recovery process. The interim measures prohibit shooting at or near Steller sea lions, establish a 3-nautical-mile buffer zone around certain rookeries in Alaska in which all vessel traffic is prohibited, and limit the number of Steller sea lions that may be killed incidental to commercial fishing. Also, as a result of the emergency listing, Federal agencies will have to consult in accordance with section 7 of the ESA to ensure that their actions are not likely to jeopardize the continued existence of the species.

On July 20, 1990, NMFS published a proposed rule (55 FR 29793), that would list the Steller sea lion throughout its range as threatened and establish protective measures similar to those contained in the emergency interim rule. In an advance notice of proposed rulemaking (55 FR 29792, July 20, 1990), NMFS requested comments to assist in developing a proposed rule that will consider the designation of critical habitat and a broader range of conservation measures.

Dated: August 20, 1990.

William W. Fox, Jr.,

Assistant Administrator for Fisheries.

[FR Doc. 90–20202 Filed 8–27–90; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 55, No. 167
Tuesday, August 28, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TB-90-007]

National Advisory Committee for Tobacco Inspection Services; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.) announcement is made of the following committee meeting:

Name: National Advisory Committee for Tobacco Inspection Services.

Date: September 19, 1990.

Time: 10 a.m.

Place: Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture's Regional Training Laboratory, 333 Waller Avenue, Lexington, Kentucky 40504.

Purpose: To discuss selling schedules and related matters for the 1990-91 burley marketing season.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact the Director, Tobacco Divsion, Agricultural Marketing Service, U.S. Department of Agriculture, room 502 Annex Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-2567, prior to the meeting. Written statements may be submitted to the Committee before, at, or after the meeting.

Dated: August 22, 1990.

Daniel Haley,

Administrator.

[FR Doc. 90-20234 Filed 8-27-90; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

The Winding Stair Tourism and Recreation Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Winding Stair Tourism and Recreation Advisory Council. The meeting will be open to the public. This notice also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act.

DATE: September 11, 1990, 6 p.m.

ADDRESSES: The meeting location is at the Bob Lee Kidd Civic Center, Poteau, Oklahoma. Send written statements to Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Hot Springs, AR 71902.

FOR FURTHER INFORMATION CONTACT: Robert LaVal, (501)-321-5317.

SUPPLEMENTARY INFORMATION: The Winding Stair Tourism and Recreation Advisory Council was created by the Winding Stair Mountain National Recreation and Wilderness Area Act (16 U.S.C. 460vv-13). The Council, comprised of 16 members, appointed by the Secretary of Agriculture, will meet periodically. The purpose of this Council is advisory in nature. The Act designates the Secretary to appoint a special advisory group from the local area in which the Ouachita National Forest is located to assist in the preparation of the tourism and recreation section of the Ouachita National Forest Land and Resource Management Plan amendment as required under subsections 15 (b) and (c). Subsection 15(b) provides for the promotion of tourism and recreation in ways consistent with the purposes for which the wilderness areas, the botanical areas, the National Recreation Area, the National Scenic and Wildlife Area, and the National Scenic Area are designated.

Glen Sullivan, Director of the Oklahoma Tourism and Recreation Department will chair the meeting. Representatives of the Forest Service will attend from the Department of Agriculture including the designated officer of the Federal Government. The agenda for this meeting will be to: finalize the report to be submitted to the Secretary of Agriculture on the findings of the Council. Wildlife and water needs will be considered.

Dated: August 21, 1990.

John M. Curran,

Forest Supervisor.

[FR Doc. 90-20158 Filed 8-27-90; 8:45 am]

BILLING CODE 3410-11-M

Exemption; Tahoe National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal, Wornmill Salvage Environmental Assessment, Truckee Ranger District, Tahoe National Forest.

SUMMARY: The Forest Service is exempting from appeal the decision to sell dead and dying trees that are being killed by the combined effects of severe drought and bark beetles. The purpose of the exemption is to expedite dead tree removal, to reduce the fire hazard, to recover the value of the timber and to rehabilitate the affected area. The Wornmill Salvage analysis is being conducted for the Wornmill Compartment of the Truckee Ranger District, Tahoe National Forest, northeast of the community of Truckee, California.

There are higher than normal levels of tree mortality occurring throughout the Tahoe National Forest as a result of four years of below normal precipitation. The drought has had the greatest effect on reducing vigor and weakening natural defense mechanisms of over-stocked and over-mature stands, predisposing them to attack by bark beetles. True fir stands above 5,000 feet elevation are experiencing the greatest mortality. The rapid deterioration rate of true fir requires that it be removed as soon as possible if the timber is to be utilized, its value recovered, and the fire hazard reduced.

The Forest Supervisor has determined that there is good cause to expedite this project. The analysis area is approximately 15,900 acres (gross) with at least 4,600 acres visibly affected at this time. Up to 50% or more of the trees in some stands within the analysis area are dead or dying. The Forest is proposing several sales using tractor and/or helicopter harvest systems. It is estimated that up to 9 million board feet (MMBF) could be salvaged from this analysis area this year. It is estimated that the total volume harvested could increase to 36 MMBF if mortality increases due to the continuing drought and bark beetle infestation. The compartment in this proposal is in the Sardine-Worn Management Unit of the Tahoe National Forest Land and Resource Management Plan. The major resource management emphasis of this management unit is long rotation,

regulated, intensive timber production on suitable timber sites, and forage production on permanent and transitory range.

No roadless or former roadless exist in the analysis area. Four miles of new system road construction is planned in the compartment, and reconstruction is limited to ten miles. Six miles of temporary road construction has been identified.

Regional entomologists have analyzed the situation and have found no economical or practical means to control the insect epidemic at the Forest level. Although salvage harvesting will not control the insect epidemic, it would recover valuable timber that would otherwise deteriorate and create a severe fire hazard. The excessive numbers of dead trees produce heavy fuel concentrations, which makes wildfire control extremely difficult.

It is extremely important to remove the dead and dying timber prior to deterioration and subsequent value losses which would make the sales economically infeasible because of higher than normal harvesting costs. Through timber sales, fuels treatments (yarding of substandard and submerchantable material) can be accomplished (or deposits collected to accomplish them) to a degree that could not be funded otherwise. It is also important to harvest the dead and dying timber when there is the potential to get the highest return to the government and collect Knutsen-Vandenburg (K–V) funds to restore forest values being affected by extensive tree mortality.

The decision for the analysis area is scheduled to be issued in early September 1990. If projects are delayed because of appeals (delays can be up to 100 days, with an additional 15–20 days for discretionary review by the Chief of the Forest Service), it is likely that the projects could not be implemented this operating season or during the winter operating season. This would result in a loss of value of the timber due to deterioration. This loss of timber value would create the potential that the sales would not sell due to this loss. In addition, the fire hazard would not be reduced if the dead timber was not removed.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt from appeals the decisions relating to the harvest and restoration of the lands affected by drought-induced timber mortality in the Wommill Salvage analysis area on the Truckee Ranger District, Tahoe National Forest. The environmental document being prepared will address the effects of the proposed actions on the environment, document public involvement, and address the issues raised by the public.

EFFECTIVE DATE: This decision will be effective September 28, 1990.

FOR FURTHER INFORMATION CONTACT: Questions about this decision should be addressed to Ed Whitmore, Timber Management Staff Director, Pacific Southwest Region, USDA Forest Service, 630 Sansome Street, San Francisco, CA 94111 at (415) 705–2648, or to Frank J. Waldo, Acting Forest Supervisor, Tahoe National Forest, Highway 49 and Coyote Street, Nevada City, CA 95959 at (916) 265–4531.

ADDITIONAL INFORMATION: The Cooperative Forestry Assistance Act of 1978 authorizes the Secretary of Agriculture to enhance the growth and maintenance of forests, promote the stability of forest-related industries and employment associated therewith, aid in forest fire prevention and control, conserve the forest cover on watersheds, and protect recreational opportunities and other forest resources.

The environmental analysis for this proposal will be documented in the Wommill Salvage environmental document. Public participation in the analysis was solicited through a public meeting held March 14, 1990, in Grass Valley, California, a news release in March, and through mailings to publics owning property adjacent to the Forest, holders of special-use permits and those others known to be interested in timber management on the Tahoe National Forest. Comments received were considered in the issues, range of alternatives considered and the management requirements and mitigation measures developed. The project files and related maps are available for public review at the Truckee Ranger District office, Truckee, California.

The analysis indicates that 9 million board feet, primarily true fir, valued at approximately 500,000 dollars, have been currently killed by the combined effects of drought and bark beetle attack. Up to 70% of the merchantable volume can be lost by the second year if true fir is left as standing dead. (USDA Circular 962 was used as a reference for the volume loss calculation and it describes decay rates in timber killed by fire. Pacific Southwest Research Station personnel have stated that the decay in timber killed by insects would be equivalent or greater.) Delaying or not harvesting this timber could result in a loss of approximately $125,000 in National Forest Receipts to Counties, as well as employment opportunities generated from harvest, milling and sale of the timber in Nevada, Placer, Plumas, Sierra, and/or Yuba Counties.

The environmental analysis documents that salvage harvesting can be conducted while protecting other resource values, such as wildlife habitat (including old-growth), soil productivity, watershed values, visual quality, air quality, recreation, and public safety. No wetlands, wilderness areas, Spotted Owl Habitat Areas, released roadless areas, or threatened or endangered species would be affected by the proposed projects. Surveys indicate that no spotted owls exist in the analysis area. Delays for any reason could jeopardize chances of accomplishing recovery and rehabilitation of the damaged resources funded with K–V monies. These delays would result in volume and value losses, and increase the chances of wildfire due to the large quantity of standing and down fuels.

Dated: August 21, 1990.

David M. Jay,

Deputy Regional Forester.

[FR Doc. 90–20203 Filed 8–27–90; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Louisiana Advisory Committee Agenda of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a subcommittee meeting of the Louisiana Advisory Committee to the Commission will be held on Saturday, September 15, 1990, from 10 a.m. until 12 p.m. at the Hilton Hotel, 5500 Hilton Avenue, Baton Rouge, Louisiana. The purpose of this meeting is to lay plans for a project the Advisory Committee has chosen on disparate impact on racial/ethnic minorities of environmental decisionmaking and policy implementation.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Robert A. Kutcher, or Melvin L. Jenkins, Director of the Central Regional Division (816) 426–5253, (TDD 816–426–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 20, 1990.

Wilfredo J. Gonzalez,

Staff Director.

[FR Doc. 90–20153 Filed 8–27–90; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 484]

Resolution and Order Approving the Application of the Board of Harbor Commissioners of the City of Long Beach, CA for a Special-Purpose Subzone at the Motorhome Recreational Vehicle Plant of National RV, Inc., Perris, CA

Proceedings of the Foreign-Trade Zones Board, Washington, DC

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Board of Harbor Commissioners of the City of Long Beach, California, grantee of FTZ 50, filed with the Foreign-Trade Zones Board (FTZ Board) on March 20, 1990, requesting special-purpose subzone status at the motorhome/recreational vehicle plant of National RV, Inc. (NRV), in Perris, California, adjacent to the Los Angeles/Long Beach Customs port of entry, the FTZ Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the FTZ Board's regulations would be satisfied, and that the proposal would be in the public interest provided approval is subject to a restriction that requires NRV to elect privileged foreign status on shipments of foreign pickup truck cab/chassis should shipments of such items admitted to the subzone exceed 5,000 units in a calendar year, approves the application subject to the foreign restriction.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue an appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in Perris, CA, Adjacent to the Los Angeles Port of Entry

Whereas, by an act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Board of Harbor Commissioners of the City of Long Beach, California, grantee of Foreign-Trade Zone 50, has made application (filed March 26, 1990, FTZ Docket 13–90, 55 FR 12695), in due and proper form to the Board for authority to establish a special-purpose subzone at the motorhome/recreational vehicle plant of National RV, Inc., located in Perris, California, adjacent to the Los Angeles/Long Beach Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations would be satisfied and that the proposal would be in the public interest if approval were given subject to the restriction in the resolution accompanying this action;

Now, therefore, in accordance with the application filed March 26, 1990, the Board hereby authorizes the establishment of a subzone at the National RV plant, designated on the records of the Board as Foreign-Trade Subzone No. 50C at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and regulations issued thereunder, to the restriction in the resolution accompanying this action, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto any necessary permits shall be obtained from federal, state, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone facility in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the contruction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC, this 21st day of August, 1990, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Marjorie Chorlins,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90–20245 Filed 8–27–90; 8:45 am]

BILLING CODE 3510–DS–M

[Docket 24–90]

Foreign-Trade Zone 66—Wilmington, NC; Application for Subzone for Deere-Hitachi; Extension of Public Comment Period

The public comment period for the above case (55 FR 26720, 6/29/90), involving a proposed special-purpose subzone for the hydraulic excavator manufacturing plant of Deere-Hitachi Construction Machinery Corporation in Kernersville, North Carolina, is extended to October 31, 1990, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions shall include 5 copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 2835, 14th and Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: August 21, 1990.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90–20248 Filed 8–27–90; 8:45 am]

BILLING CODE 3510–DS–M

[Docket 23-90]

Foreign-Trade Zone 136—Brevard County, FL; Application for Subzone for Flite Technology, Extension of Public Comment Period

The public comment period for the above case (55 FR 26224, 6/27/90), involving a proposed special-purpose subzone for the machinery components manufacturing plant of Flite Technology, Inc. (FTI), in Cocoa, Florida, is extended to October 15, 1990, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions shall include 5 copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 2835, 14th and Pennsylvania Avenue NW., Washington, DC 20230.

Dated: August 21, 1990.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 90-20246 Filed 8-27-90; 8:45 am]
BILLING CODE 3510-DS-M

[A-28-90]

Foreign-Trade Zone 151—Findlay, OH; Request for Manufacturing for Findlex Corp.; Extension of Public Comment Period

The public comment period for the above case (55 FR 26225, 6/27/90), involving manufacturing of vehicle brakes under zone procedures within FTZ 151 at the Tall Timbers Industrial Park, Findlay, Ohio, is extended to October 31, 1990, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions shall include 5 copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 2835, 14th and Pennsylvania Avenue NW., Washington, DC 20230.

Dated: August 21, 1990.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 90-20247 Filed 8-27-90; 8:45 am]
BILLING CODE 3510-DS-M

[Docket 34-90]

Foreign-Trade Zone 21—Charleston, SC; Application for Subzone; Haarmann and Reimer Corp., Flavor and Fragrance Chemicals Processing Plant

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the South Carolina State Ports Authority, grantee of FTZ 21, requesting special-purpose subzone status for the flavor and fragrance chemicals processing plant of Haarman and Reimer Corporation (H&R), a wholly owned subsidiary of Bayer U.S.A., Inc., located in Goose Creek, South Carolina, within the Charleston Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on August 14, 1990.

The H&R plant is located on a 6-acre site within the Bushy Park industrial park on Highway 503 in Berkeley County, some 20 miles north of Charleston. The facility produces a variety of flavor and fragrance chemicals. The proposal calls for the use of zone procedures in the production of synthetic menthol, benzyl butyrate, methyl benzoate, amyl salicylate, benzyl acetate, benzyl benzoate, benzyl salicylate, hexyl salicylate, cinnamate, 1-carvone, citrates, menthyl anthranilate, tea salicylate, essential oils, certain fragrance blends (Item 3303.00.2000 HTSUS), and mixtues of odiferous substance (Item 3302.10.1000 HTSUS). Some of the ingredients used are sourced abroad such as menthol feedstocks, methyl anthranilate, type R catalysts, and flavoring compounds (Item 2906.29.2000 HTSUS).

Zone procedures would exempt H&R from Customs duty payments on the foreign ingredients used in its exports. On its sales in the domestic market, the company would be able to choose the lower finished product duty rate when applicable. Duties on the finished products range from zero to 14.7 percent and on the foreign-sourced ingredients, zero to 11.9 percent. The applicant indicates that zones savings will help improve the South Carolina plant's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Howard Cooperman, Regional Director, I & C, U.S. Customs Service, Southeast Region, 909 S.E. First Avenue, Miami, FL 33131–2595; and, Lt. Colonel James T. Scott, District Engineer, U.S. Army Engineer District Charleston, P.O. Box 919, Charleston, SC 29403–0919.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before September 26, 1990.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 9 Liberty Street, Room 128, Charleston, SC 29424

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 2835, 14th and Pennsylvania Avenue NW., Washington, DC 20230.

Dated: August 20, 1990.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 90-20249 Filed 8-27-90; 8:45 am]
BILLING CODE 3510-DS-M

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in room 2841, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Decision: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for each of the listed dockets.

Docket Number: 89-029. *Applicant:* National Center for Atmospheric Research, Boulder, CO 80307. *Instrument:* Multi-pass Absorption Cell. *Manufacturer:* Unisearch Associates, Canada. *Date of Denial Without Prejudice to Resubmission:* February 28, 1990.

Docket Number: 89–275. *Applicant:* Charleston Area Medical Center, Inc., Charleston, WV 25326. *Instrument:* Electron Microscope, Model CM–902/G45. *Manufacturer:* Carl Zeiss, West Germany. *Date of Denial Without Prejudice to Resubmission:* June 8, 1990.

Docket Number: 89–290. *Applicant:* CUNY-College of Staten Island, Staten Island, NY 10301. *Instrument:* Betz Micromanometer, Model 2500. *Manufacturer:* Van Essen Instruments, The Netherlands. *Date of Denial Without Prejudice to Resubmission:* June 8, 1990.

Docket Number: 89–296. *Applicant:* University of California, San Diego, Scripps Institution of Oceanography, La Jolla, CA 92093. *Instrument:* Mass Spectrometer, Model VG 336. *Manufacturer:* VG Isotopes, United Kingdom. *Date of Denial Without Prejudice to Resubmission:* June 8, 1990.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90–20250 Filed 8–27–90; 8:45 am]

BILLING CODE 3510–DS–M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 90–136. *Applicant:* University of North Carolina at Chapel Hill, 451 Medical Research Building, Chapel Hill, NC 27599. *Instrument:* Electron Microscope, Model EM 900 with Accessories. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* The instrument will be used for the study of biological specimens in experiments focused on identifying patterns of development and pathology associated with experimental animal and human organ systems. In addition, the instrument will be used in Cell Biology and Anatomy 209—Electron Microscopy Principles and Applications to acquaint students with the principles of operation and practical use of this instrument. *Application Received by Commissioner of Customs:* July 20, 1990.

Docket Number: 90–137. *Applicant:* University of Wisconsin—Stevens Point, 2100 Main Street, Stevens Point, WI 54481. *Instrument:* Rapid Kinetics Accessory, SFA–12. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* The instrument is an accessory to an existing spectrophotometer which will make it possible to monitor the rates of fast reactions that could otherwise not be followed. *Application Received by Commissioner of Customs:* July 23, 1990.

Docket Number: 90–138. *Applicant:* Massachusetts Institute of Technology, Department of Aeronautics & Astronautics, Gas Turbine Laboratory, 77 Massachusetts Avenue, Cambridge, MA 01239. *Instrument:* Excimer Laser, Model EMG 160T MSC with Accessory. *Manufacturer:* Lambda Physik, Inc., West Germany. *Intended Use:* The instrument will be used to excite particular molecular transitions in oxygen molecules that are sensitive to gas temperature. The objective of the investigation is to develop a practical technique for the measurement of gas temperature in jet engine compressors and turbines. *Application Received by Commissioner of Customs:* July 23, 1990.

Docket Number: 90–139. *Applicant:* Massachusetts Institute of Technology, Center for Material Science and Engineering, 77 Massachuestts Avenue, Cambridge, MA 02139. *Instrument:* Scanning Electron Microscope, Model HB603. *Manufacturer:* VG Microscopes, United Kingdom. *Intended Use:* The instrument will be used for the study of ceramics, metals, polymers, electronic materials, magnetic materials and composite materials. In each case this includes studies of the composition, on a near-atomic scale, and the defect structures (including grain and phase boundaries), and the interrelationship between these properties. In addition, the instrument will be used in teaching the courses 3.081—Materials Characterization and 3.32—Electron Microscopy. *Application Received by Commissioner of Customs:* July 23, 1990.

Docket Number: 90–140. *Applicant:* National Institute of Standards and Technology, Route 270 and Quince Orchard Road, Gaithersburg, MD 20899. *Instrument:* Excimer Laser, Model LPX 205iCC. *Manufacturer:* Lambda Physik, GmbH, West Germany. *Intended Use:* The instrument will be used to vaporize refractory materials such as $YBa_2Cu_3O_x$, Graphite, SiC, TaC, Co-Cr, Tb-Fe, Ag-Fe_2O_3, MgO, and PZT (lead zirconate titanate) and deposit thin films on substitutes of Si and MgO. The species present in the resulting vapor phase plume will be studied using optical emission spectroscopy and high pressure sampling mass spectrometry. In addition, the as-deposited thin films will be analyzed using x-ray and scanning electron microscopy to study their composition, phase and morphology. *Application Received by Commissioner of Customs:* July 23, 1990.

Docket Number: 90–141. *Applicant:* Colorado State University, Department of Anatomy and Neurobiology, Fort Collins, CO 80523. *Instrument:* Electron Microscope, Model JEM 2000EX. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used by biomedical researchers investigating normal cell and molecular biology or the alteration of cells and tissues by disease, trauma, or other pathology. In addition the instrument will be used in electron microscopy and research courses to prepare students for independent research in the biomedical sciences. *Application Received by Commissioner of Customs:* July 24, 1990.

Docket Number: 90–0142. *Applicant:* National Institute of Standards and Technology, Acquisition and Assistance Division, Room B–128, Building 30, Gaithersburg, MD 20899. *Instrument:* Helium-3 Refrigerator and Magnet System. *Manufacturer:* Cryogenic Consultants, Ltd., United Kingdom. *Intended Use:* The instrument will be used for testing quantum Hall devices, characterization of alloys and materials used in resistance metrology and as a means of maintaining standard reference resistance for comparison with room-temperature reference resistors. *Application Received by Commissioner of Customs:* July 24, 1990.

Docket number: 90–143. *Applicant:* University of California, 1156 High Street, Santa Cruz, CA 95064. *Instrument:* Spectrofluorimeter, Stopped-Flow, Model DX.17MV. *Manufacturer:* Applied Photophysics, United Kingdom. *Intended Use:* The instrument will be used for studies of organic compounds, so called carbon acids and electrophilic olefins. Dilute solutions of the carbon acids and the bases, or of the electrophilic olefins and the nucleophiles, will be prepared in water and other solvents. The solutions will be rapidly mixed and the rate of reaction determined by monitoring changes in the light absorbance that occur as a consequence of the chemical reaction. The measurement of the rates of these reactions makes it possible to deduce the mechanism of the reactions and to learn how chemical reactivity is related to molecular structure. *Application*

Received by Commissioner of Customs: July 24, 1990.

Docket number: 90–144. *Applicant:* Children's Hospital of Michigan, 3901 Beaubein, Detroit, MI 48201. *Instrument:* Equilibration System, Isoprep 18. *Manufacturer:* VG Isogas, United Kingdom. *Intended Use:* The instrument will be used for equilibration of oxygen-18 in CO_2 and biological fluids prior to determination of biological fluid enrichment in oxygen-18 with a gas ratio mass spectrometer. This methodology is to be used to estimate body water content and metabolic expenditures of humans and animals. *Application Received by Commissioner of Customs:* July 25, 1990.

Docket number: 90–145. *Applicant:* Presbyterian-University Hospital, 2403 Sidney Street, Pittsburgh, PA 15203. *Instrument:* Electron Microscope, CM12. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* The instrument will be used for studies of cells and tissues from humans and animals in the following investigations:

(1) Examination of ultrastructural features of cells and interstitial tissues for diagnosis of disease process, or for various experimental purposes,

(2) Diagnosis of renal disease looking for alterations in glomerular architecture, changes in the basement membranes, presence of deposits, and increases or changes in the structure of the indigenous glomerular cells,

(3) Diagnosis of tumors looking for features of differentiation in the cytoplasm, such neurosecretory granules, increases or aggregation of filometer, lysosomes, melanin, mucin, and abnormal intercellular junctions,

(4) Looking for viral parhile during diagnosis of suspected herpes virus infection.

In addition, the instrument will be used to train residents in Pathology the technical aspects of EM and how to interpret electron micrographs for diagnostic purposes. *Application Received by Commissioner of Customs:* July 25, 1990.

Docket number: 90–146. *Applicant:* U.S. DOE/Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. *Instrument:* Mass Spectrometer, Model 30–01. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* The instrument will be used for compositional isotopic analysis of gas samples derived from a wide variety of sources related to ongoing research programs. The samples may include insulating or cover gases from high-energy particle accelerators used in high-energy physics experiments, plenum gases or gaseous fission products from nuclear reactor characterization studies, gaseous reaction products from chemical reactions, flue-gas samples from fossil energy programs, mixtures of hydrogen isotopes from fusion studies, or any pure gas or mixture of gases that requires qualitative or quantitative analytical characterization. *Application Received by Commissioner of Customs:* July 25, 1990.

Docket number: 90–147. *Applicant:* University of California, 1156 High Street, Santa Cruz, CA 95064. *Instrument:* Rapid Kinetics Accessory, RX–1000. *Manufacturer:* Applied Photophysics, Ltd., United Kingdom. *Intended Use:* The instrument will be used to take absorption spectra of solutions in which fast reactions occur. *Application Received by Commissioner of Customs:* July 25, 1990.

Docket number: 90–148. *Applicant:* University of Vermont, Department of Pharmacology, Given Building, Burlington, VT 05405. *Instrument:* Resistance Vessel Myograph & Spectrofluorescence System. *Manufacturer:* Creative Instruments, West Germany. *Intended Use:* The instrument will be used to simultaneously study optical and mechanical properties of small (resistance) arteries. The arteries will be loaded with dyes whose fluorescence intensities emitted are recorded proportional to intracellular levels of calcium pH, membrane potential. The objective of the study is to provide a mechanism for mechanical transduction abnormalities that may occur in coronary and cerebral vasospasm. In addition, the instrument will be used for graduate student training in methods of vascular smooth muscle research. *Application Received by Commissioner of Customs:* July 27, 1990.

Docket Number: 90–149. *Applicant:* Armed Forces Radiobiology Research Institute, Building 42, Bethesda, MD 20814–5145. *Instrument:* Image Analysis Hardware. *Manufacturer:* Imaging Research Institute, Canada. *Intended Use:* The instrument will be used for studies of animal tissues that will include brain and adrenal gland. Expression of proteins and messenger RNAs and depletion of secretory vesicles from cells will be analyzed. The long term objectives of the studies are to elucidate the mechanisms by which stress alters central nervous system, endocrine and immunological mechanisms and to develop means of protecting against these effects. *Application Received by Commissioner of Customs:* July 27, 1990.

Docket Number: 90–150. *Applicant:* Texas A&M University, Department of Biochemistry and Biophysics, College Station, TX 77843–2128. Multi-mixing Stopped-Flow Spectrofluorimeter, Model DX17MV. *Manufacturer:* Applied Photophysics, Ltd., United Kingdom. *Intended Use:* The instrument will be used to follow chemical reactions of proteins over time courses less than a second. Depending upon the specific protein, the properties which will be investigated are the chemical mechanism of catalysis, the structure and reactivity of intermediates in catalysis, rates and stoichiometry of interaction of nucleic acids with binding proteins, and the kinetic mechanism of folding and unfolding of proteins. In addition, the instrument will be used for education purposes in the courses Biochemistry and Biophysics 690 "Theory of Biochemical Research" and Biochemistry and Biophysics 691 "Research." *Application Received by Commissioner of Customs:* July 30, 1990.

Docket Number: 90–151. *Applicant:* University of Nebraska-Lincoln, Department of Research Center, W150 Nebraska Hall, Lincoln, NE 68588–0502. *Instrument:* Tunable Diode Laser Absorption Spectrometer, Model EMS–05DM. *Manufacturer:* Unisearch Associated, Inc., Canada. *Intended Use:* The instrument will be used for the study of the increase of traces of methane in the atmosphere. Research students will be trained to use the instrument for trace gas concentration measurements in the courses Masters Thesis Research and Doctoral Dissertation Research in engineering and agricultural meteorology. *Application Received by Commissioner of Customs:* July 30, 1990.

Docket Number: 90–152. *Applicant:* Health Research Inc., Empire State Plaza, room 1683, Tower Building, Albany, NY 12237. *Instrument:* Mass Spectrometer, Model VG Autospec Q. *Manufacturer:* VG Analytical Ltd., United Kingdom. *Intended Use:* The instrument will be used for the ultratrace analysis of polychlorinated dibenzo-p-dioxins, polychlorinated dibenzofurans and related environmental contaminants in biomedical and environmental samples. *Application Received by Commissioner of Customs:* July 30, 1990.

Docket Number: 90–153. *Applicant:* Department of the Interior, U.S. Geological Survey, WRD, P.O. Box 1669, 445 Broadway, Albany, NY 12201. *Instrument:* Electromagnetic Induction Logger, Model EM 39. *Manufacturer:* Geonics, Ltd., Canada. *Intended Use:* The instrument will be used to determine lithologic and water-quality characteristics of aquifers in New York

and surrounding states. The research will be conducted in aquifers contaminated by saltwater intrusion, landfill leachate and industrial wastes. Specifically the instrument will be used to log the electromagnetic-induction conductivity and gamma radiation of the aquifer in a cylindrical area surrounding a two- to six-inch PVC borehole along both cased and screened sections. *Application Received by Commissioner of Customs:* July 31, 1990.

Docket Number: 90–154. *Applicant:* University of California Health Sciences Center, 4200 E. Ninth Avenue, Denver, CO 80262. *Instrument:* Stopped-Flow Spectrofluorimeter, Model SF.17MV. *Manufacturer:* Applied Physics Ltd., United Kingdom. *Intended Use:* The instrument will be used for studies of the kinetic parameters of a man-made enzyme which has properties similar to those of chymotrypsin, of modifications of this one and of other synthetic enzymes. In addition, the instrument will be used for laboratory research in biochemistry and training of post-doctoral fellows in enzyme kinetics providing hands-on experience with use of state of the art instumentation in a truly pioneering project. *Application Received by Commissioner of Customs:* August 1, 1990.

Docket Number: 90–156. *Applicant:* Washington University, Department of Earth & Planetary Sciences, Campus Box 1169, One Brookings Drive, St. Louis, MO 63130. *Instrument:* Mass Spectrometer, VG Sector 54. *Manufacturer:* VG Isotopes, Ltd., United Kingdom. *Intended Use:* The instrument will be used to measure the isotopic compositions of the elements lead, uranium, neodymium, samarium, strontium, rubidium, potassium and calcium in naturally occurring rocks, minerals and waters. In addition, the instrument will be used to precisely determine concentrations of certain trace-elements in the same materials. The data obtained will be used to attack a wide variety of problems that are related to the evolution of Earth's crust and mantle. The instrument will also be used to train undergraduate and graduate students in the theory and application of isotope geochemistry through hands-on experience. *Application Received by Commissioner of Customs:* August 8, 1990.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90–20251 Filed 8–27–90; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

[Docket No. 80749–0209]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of tentative cut-off dates for completion of construction or conversion of new vessels and vessel replacement restrictions for potential limited access to Pacific coast groundfish fishery.

SUMMARY: The purpose of this notice is to provide notice to vessel owners of potential criteria that may be utilized to determine priorities for access to the Pacific coast groundfish fishery and potential restrictions on the replacement of qualifying vessels in the event that the Pacific Fishery Management Council adopts a limited access program.

This notice announces that the Pacific Fishery Management Council has identified a cut-off date of September 30, 1990, for completion of the construction of new fishing vessels. This date may be used in order to establish priorities for future participation in the Pacific coast commercial groundfish fishery, in the event that a limited access management regime is developed and implemented by Federal regulations. At a future meeting the Council may choose to use this date or a later date as the cut-off date for the completion of vessels being converted for use in the Pacific Coast groundfish fishery.

Drafts of a limited entry program contain a requirement that limited entry permits will be endorsed with the qualifying vessel's "length overall" and that replacement of a vessel may be limited to the length of the permit size endorsement plus 5 feet. A replacement vessel (vessel to which permit rights are transferred from the qualifying vessel being replaced) in place after September 30, 1990, which is more than 5 feet greater in overall length than the replaced vessel, may be given a permit endorsed for the size of the smaller qualifying vessel while those in place prior to September 30, 1990, may be given a permit endorsed for the size of the larger replacement vessel, provided the permit rights which would have been given to the smaller qualifying vessel are transferable.

This announcement does not prevent the development or implementation of alternative criteria that addressed the same issues or establish later cut-off dates for the same purposes as this notice.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Director, Northwest Region, NMFS), 206–526–6150; E. Charles Fullerton (Director, Southwest Region, NMFS), 213–514–6196; or Lawrence D. Six, (Executive Director, Pacific Fishery Management Council), 503–326–6352.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved on January 4, 1982 (47 FR 43964, October 5, 1982), and implementing regulations appear at 50 CFR Parts 611 and 663.

Cut-Off Date Established for Vessels Under Construction

Since 1987, the Pacific Fishery Management Council (Council) has been considering various plans for limiting access to the Pacific coast groundfish fishery. As yet, none has been adopted. At its July 13–14, 1988, meeting the Council designated an eligibility window period from July 11, 1984, to August 1, 1988, for use in establishing priorities for future participation in the Pacific coast groundfish fishery, in the event that a limited entry program is adopted (53 FR 29337, August 4, 1988). Priority would be given to vessels that made commercial landings of groundfish caught off Washington, Oregon, and California during the window period. Unless otherwise provided in the purchase and sale agreement, the priority would remain with the vessel and would automatically transfer to subsequent owners of the qualifying vessel.

In 1988, a Council-sponsored industry committee developed two license limitation proposals for which the Council has sought public review and comment, as well as a third proposal, no limited entry. Over the last two years, the Council has combined the two license limitations proposals into a single proposal with options for minimum landing requirements to qualify for a permit. This current proposal contains provisions for a vessel to qualify for a permit even if it had not been used to land fish during the window period, if construction of the vessel was in progress (the keel laid) or a contract signed (with at least 10 percent earnest money paid) prior to the end of the window period. These vessels "under construction" were to be given some level of priority, but not necessarily the same level of priority as vessels from which commercial landings were made during the window period.

At its July, 1990, meeting the Council chose September 30, 1990, as a tentative cut-off date by which anyone who met the criteria for beginning or financing

construction of a new vessel during the window period must have completed construction and made at least one landing of groundfish with that vessel. This announcement identifies September 30, 1990, for potential use as a cut-off date for the completion of vessels under construction and making a first landing of groundfish for the purpose of determining a priority for access to the Pacific coast groundfish fishery on the basis of construction qualifying criteria.

Construction Cut-Off Date May Be Used for Vessels Under Conversion

The current proposal contains provisions for a vessel to qualify for a permit even if it had not been used to land fish during the window period, if conversion of the vessel was in progress prior to the end of the window period. At a later date, the Council may establish either September 30, 1990, or a later date as the cut-off date for the completion of vessels being converted for use in the Pacific groundfish fishery.

Vessel Length Restriction and Vessel Length Cut-off Date

The Council's current proposal adopts length overall of the qualifying vessel for endorsement on the permit and tentatively selects provisions that restrict the size of vessel, which may be used with the permit, to no more than the endorsed length plus 5 feet. The purpose of this provision is to place a limit on the amount by which fishing capacity of the whole fishing fleet might increase by preventing qualifying vessels from being replaced by larger vessels with greater length and greater potential fishing capacity.

A replacement vessel (*i.e.*, a vessel that replaces, through construction, conversion, purchase or trade, a vessel that will qualify for a limited entry permit) in place prior to September 30, 1990, may receive greater rights than a replacement vessel in place after that date. In place means that the owner of a qualifying vessel has acquired a replacement vessel, then disposed of the qualifying vessel, while reserving the right to a future limited entry permit based on the history of the qualifying vessel. A qualifying vessel is one with a history which would qualify it for a permit with transferable harvest rights.

Under the current proposal, if a replacement vessel more than 5 feet longer than the qualifying vessel is in place before September 30, 1990, the owner of the replacement vessel could be issued a special permit endorsed for the length of the replacement vessel. If a replacement vessel more than 5 feet longer than the qualifying vessel is in place after September 30, 1990, the owner of the replacement vessel could only be issued a permit endorsed for the size of the qualifying vessel.

The provisions announced in this notice are tentative and may be implemented as announced, changed, or even eliminated in the event the Council adopts a limited entry program and recommends its implementation by the Secretary of Commerce. This action does not commit the Council or the Secretary of Commerce to any particular management regime or eligibility criterion for entry to the groundfish fishery or to the adoption of a limited entry program.

Additional Information

Anyone wishing to be kept up to date on the current status of the limited entry proposal should contact the Pacific Fishery Management Council to be put on the appropriate Council mailing lists (503–326–6352).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 23, 1990.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

FR Doc. 90–20240 Filed 8–23–90; 2:27 pm]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Plan Monitoring Teams (PMTs) for pelagic fisheries and for the bottomfish/seamount groundfish fisheries are holding separate public meetings on September 4–5, and on September 6–7, 1990, respectively, at the National Marine Fisheries Service, Honolulu Laboratory Conference Room, 2570 Dole Street, Honolulu, HI.

The Pelagics PMT meetings will begin at 9 a.m., on September 4 and 5, to discuss the 1989 annual report, including the Scientific and Statistical Committee's review and recommendations; the Pelagics Standing Committee's report and recommendations; the Council's action; and preparation and incorporation of State of Hawaii information. Other discussions will include the status of the Council's request for emergency actions; draft amendments to replace emergency actions; the definition of overfishing, including identification and discussion of data deficiencies; and the continuation of quantifying and analyzing fishery indicators. Other business may also be discussed.

The Bottomfish and Seamount Groundfish PMT meetings will begin at 9 a.m., on September 6 and 7, to discuss data needs related to the presentation and analysis of fishery indicators, including Spawning Potential Ratio (SPR), i.e., the identification of data needs; discussion of proposed projects addressing identified needs related to American Samoa, Guam, Hawaii, and the Commonwealth of the Northern Mariana Islands. The PMT also will evaluate alternative management measures for the Main Hawaiian Islands (MHI) bottomfish fishery, i.e., a summary of the Council's discussion; a description of observed problems from field office representatives; a discussion of regulatory options best suited for evaluation; an outline of the analysis; data availability; task assignments; and review of a final draft of an overfishing amendment. Other business may also be discussed.

For more information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813; telephone: (803) 523–1368.

Dated: August 23, 1990.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management.

[FR Doc. 90–20241 Filed 8–27–90; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Permit Modification: Dr. Thomas F. Albert (P282A) Modification No. 2 to Permit No. 519

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216) and § 220.24 of the regulations on endangered species (50 CFR parts 217–222), Scientific Research Permit No. 519 issued to Dr. Thomas F. Albert, Department of Conservation and Environmental Protection, North Slope Borough, P.O. Box 69, Barrow, Alaska 99723, on August 23, 1985 (59 FR 35286) and as modified on January 11, 1989 (54 FR 1758), is further modified in the following manner:

Section A.2 is added:

2. Specimen materials collected from bowhead whales *(Balaena mysticetus)*, gray whales *(Eschrichtius robustus)*, beluga whales *(Delphinapterus leucas)*, bearded seals *(Erignathus barbatus)*, and ringed seals *(Phoca hispida)* that are dead beached/stranded or taken in the Alaska Eskimo subsistence-harvest as authorized by Section A.1 of Permit No. 519 may be exported and re-imported.

Section B.2 is changed to read:

2. The Holder shall consult with and receive approval from Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802 (907/586–7221), concerning the specific activities to be conducted, dates and locations of activities, destination and anticipated dates of export materials, and transport itinerary.

Section B.6 and B.7 are added:

B.6 The Permit Holder shall request and receive authorization from the Assistant Administrator for Fisheries prior to exportation or importation of any material taken under authority of this Permit. The request should include identity of species and specimen(s), destination, synopsis of intended research, and anticipated date(s) of shipment.

B.7 All specimen materials collected under this authority shall be maintained according to accepted curatorial standards and deposited in a museum or other bona fide scientific collection.

This modification becomes effective upon publication in the **Federal Register**.

Documents pertaining to the Permit and all modifications are available for review in the following offices:

By appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, room 7324, Silver Spring, Maryland 20910; and

Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Building, Juneau, Alaska 99802.

Dated: August 22, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90–20173 Filed 8–27–90; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Application for Permit: Kenneth C. Balcomb, III

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the regulations governing endangered fish and wildlife permit (50 CFR parts 217–222).

1. Applicant: Kenneth C. Balcomb III, Center for Whale Research, 1359 Smuggler's Cove, Friday Harbor, WA 98250

2. Type of Permit: Scientific Research under the Marine Mammal Protection Act and scientific purposes under the Endangered Species Act.

3. Name and Number of Marine Mammals:

1500 humpback whales (*Megaptera novaengliae*)
1000 blue whales (*Balenoptera musculus*)
1000 fin whales (*Balaenoptera physalus*)
500 killer whales (*Orcinus orca*)
100 right whales (*Balaena glacialis*)
1000 Baird's beaked whales (*Berardius bairdii*)

4. Type of take: The take is by potential harassment. Said potential harassment may occur by vessels and/or aircraft in the course of photo-identification studies of the species mentioned, and may occur on more than one occasion for each whale taken.

5. Location and duration of activity: The proposed research will be conducted in all months of the year for five years (plus possible extensions) throughout the study area. It is anticipated that most studies will occur in the inland marine and continental shelf waters of Alaska, Washington, Oregon, and California from April through October.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Hwy., room 7324, Silver Spring, Maryland 20910 within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

By appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Hwy., suite 7324, Silver Spring, MD 20910 (tel: 301/427–2289);

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, BIN C15700, Seattle, WA 98115; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731–7415;

Coordinator, Pacific Area Office, National Marine Fisheries Service, 2570 Dole Street, Honolulu, HI 96822–2396.

Dated: August 22, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90–20172 Filed 8–27–90; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Issuance of Modification; West Coast Whale Research Foundation (P349A); Modification No. 2 to Permit No. 698

Notice is here by given that pursuant to the provisions of §§ 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), and the regulations governing endangered species permits (50 CFR part 217–222), Scientific Research Permit No. 698 issued to the West Coast Whale Research Foundation, c/o Elizabeth A. Mathews, Applied Sciences 273, University of California at Santa Cruz, Santa Cruz, California is modified in the following manner:

Number and Kind of Marine Mammals

Sections 1.a is added, 2 is changed and 3 is added:

1.a Of the 400 humpback whales (*Megaptera novaeangliae*) authorized in A.1 to be taken by harassment annually in Alaska, a suction cup telemetry system may be attached on up to 20 sleeping animals per year over a 5-year period.

2. All approaches or attempts to approach animals at distances less than 100 yards in Hawaii (as outlined in § 222.31 of the regulations for approaching humpback whales in Hawaii) and less than 100 yards in Alaska will be counted as a take against the authorized number. Mother/calf pairs shall not be approached closer than 300 yards.

3. The following species may be taken by harassment on an opportunistic basis while conducting scientific studies on humpback whales: Up to 300 pilot whales (*Globicephala melaena*), 50 sperm whales (*Physeter catodon*), 200 false killer whales (*Pseudorca crassidens*), 100 pygmy killer whales (*Kogia breviceps*), 80 killer whales (*Orcinus orca*), 50 Blainsville beaked whales (*Mesoplodon europaeus*), 50 Curvier's beaked whales (*Ziphius*

cavirostris), 300 melon-headed whales (*Peponocephala electra*), 200 spotted dolphins (*Stenella attenuata*), 200 spinner dolphins (*Stenella longirostris*), 50 rough toothed (*Steno bredanensis*), and 100 bottlenose dolphins (*Tursiops sp.*).

B. Special Conditions

Section B.4 and B.5 is changed and B.11 is added:

4. The Holder shall notify the Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Juneau, Alaska 99802 (tel: 907/586-7221) at least 48 hours in advance with an itinerary of the activities. Notification shall include a list of the anticipated field days scheduled, vessels, research assistants, aides involved in the work, and areas of operation.

5. The Holder shall submit a report by December 31 of each year the Permit is valid describing the activities conducted under the Permit. This report should include: when, where, how, and how many animals, by age and sex (as possible) as well as species, where taken in the course of the authorized activities; the number of attempted approaches of individuals and groups and actual numbers approached; how these individuals and groups responded; actual distances required to obtain clear photographs; measures taken to minimize disturbance and the apparent effectiveness thereof; and a summary of the study as it relates to the ojectives.

11. In the event a whale is accidentially entangled or reacts violently in the course of field activities, the Holder shall cease the activity and provide a report to the Assistant Administrator for Fisheries and the Director, Alaska Region upon return from the field trip. The report shall include a description of the events surrounding the incident and identification of steps that will reduce the potential for additional incidents. Authorization to proceed with subsequent field work of this nature will be at the discretion of the Assistant Administrator for Fisheries in consultation with the Director, Alaska Region, after review of the report and the experimental protocol.

This modification becomes effective upon signature.

Documents pertaining to the application and modifications are available in the following offices:

By appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Silver Spring, Maryland 20910;

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7514;

Pacific Area Office, Southwest Region, National Marine Fisheries Service, 2570 Dole Street, Honolulu, Hawaii 96822-2396; and

Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Juneau, Alaska 99802.

Dated: August 21, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 20174 Filed 8-27-90; 8:45 am]

BILLING CODE 3510-22-M

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of Bangladesh

August 22, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: August 29, 1990.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 641, 647/648 and 647-T/648-T are being increased by application of swing and special shift, reducing the limits for Categories 341, 635 and 847.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 55 FR 3449, published on February 1, 1990; and 55 FR 13928, published on April 13, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 22, 1990.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Commissioner:

This directive amends but does not cancel, the directives issued to you on January 25, 1990 and April 9, 1990 by the Chairman, Committee for the Implementation of Textile Agreements. These directives concern imports into the United States of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on February 1, 1990 and extends through January 31, 1991.

Effective on August 29, 1990 the directives of January 25, 1990 and April 9, 1990 are amended to adjust the limits for the following categories, under the terms of the current bilateral agreement between the Governments of the United States and the People's Republic of Bangladesh:

Category	Adjusted 12-mo limit[1]
341	1,183,589 dozen of which not more than 609,859 dozen shall be in Category 341-Y.[2]
635	168,348 dozen.
641	703,613 dozen.
647/648	951,146 dozen of which not more than 618,245 dozen shall be in Categories 647-T/648-T.[3]
847	350,336 dozen.

[1] The limits have not been adjusted to account for any imports exported after January 31, 1990.

[2] Category 341-Y: only HTS numbers 6204.22.3060, 6206.30.3010 and 6206.30.3030.

[3] Category 647-T: Only HTS numbers, 6103.23.0040, 6103.29.1020, 6103.43.1520, 6103.43.1540, 6103.49.1020, 6103.49.3014, 6112.12.0050, 6112.19.1050, 6112.20.1060, 6113.00.0045, 6203.23.0060, 6203.29.2030, 6203.43.2500, 6203.43.3500, 6203.43.4010, 6203.43.4020, 6203.49.1500, 6203.49.2010, 6203.49.2030, 6203.49.3030, 6210.40.1030, 6211.20.1525, 6211.20.3030 and 6211.33.0030; Category 648-T: only HTS numbers 6104.23.0032, 6104.29.1030, 6104.29.2038, 6104.63.2010, 6104.63.2025, 6104.69.2030, 6104.69.3026, 6112.12.0060, 6112.19.1060, 6112.20.1070, 6113.00.0050, 6117.90.0046, 6204.23.0040, 6204.29.2020, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.69.2510, 6204.69.2530, 6204.69.3030, 6204.69.9030, 6210.50.1030, 6211.20.1555, 6211.20.6030, 6211.43.0040 and 6217.90.0060.

The Committee for the Implementation of Textile Agreements had determined that

these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-20156 Filed 8-27-90; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in Taiwan

August 22, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs decreasing limits.

EFFECTIVE DATE: August 23, 1990.

FOR FURTHER INFORMATION CONTACT: Kim-Bang Nguyen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-8791. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; Sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1654).

The current limits for Categories 435 and 442 are being decreased to account for special shift applied to Category 444 in a previous directive.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 53354, published on December 28, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Memorandum of Understanding dated December 1, 1989, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 22, 1990.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 20, 1989 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the period which began on January 1, 1990 and extends through December 31, 1990.

Effective on August 23, 1990, the directive of December 20, 1989 is being amended further to decrease the limits for the following categories, as provided under the provisions of the Memorandum of Understanding dated December 1, 1989:

Category	Adjusted 12-month limit [1]
435	18,687 dozen.
442	39,058 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1989.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-20243 Filed 8-27-90; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Military Personal Property Symposium

AGENCY: Military Traffic Management Command, Department of the Army, DOD

ACTION: Notice of open meting.

SUMMARY: Announcement is made of meeting of the Military Personal Property Symposium. This meeting will be held on September 13, 1990 at the Sheraton Crystal City Hotel, Arlington, Virginia, and will convene at 0830 hours and adjourn at approximately 1500 hours.

PROPOSED AGENDA: The purpose of the symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the DOD 4500.34R, Personal Property Traffic Management Regulation, and the handling of other matters of mutual interest concerning the Department of Defense Personal Property Shipment and Storage Program.

FOR FURTHER INFORMATION: All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, ATTN: MTPP-M, at telephone number 756-1600, between 0800-1500 hours. Topics to be discussed should be received on or before September 3, 1990.

John O. Roach,

Department of the Army Liaison with the Federal Register.

[FR Doc. 90-20155 Filed 8-27-90; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Feasibility Report and Environmental Impact Statement on Humboldt Harbor and Bay Navigation Channel Deepening, Humboldt County, CA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Corps of Engineers (Corps) is conducting a Feasibility Study of navigation improvements for commercial deep draft vessels in Humboldt Harbor and Bay. The primary objective of this study is to investigate commercial deep draft vessel navigation problems in the Humboldt Harbor and Bay Area, identify potential solutions to these problems, and determine whether Federal participation is justified in the implementation of measures developed to solve commercial deep draft navigation problems in Humboldt Harbor and Bay. This information will be published in a Feasibility Report, which will be integrated with an Environmental Impact Statement (EIS).

FOR FURTHER INFORMATION CONTACT: Questions regarding the preparation of the Feasibility Report should be directed to Mr. Roger Golden, Environmental Branch, U.S. Army Corps of Engineers, San Francisco District, 211 Main Street, San Francisco, California 94105-1905 (telephone 415-744-3344). Questions regarding the scoping process or the EIS should be directed to Mr. Dave Hodges, Environmental Branch, U.S. Army Corps of Engineers, San Francisco, California 94105-1905 (telephone 415-744-3342).

SUPPLEMENTARY INFORMATION:

Humboldt Harbor and Bay Channel Deepening Alternatives

The Reconnaissance Report, dated November 1989, for navigation improvements in Humboldt Harbor and Bay identified several alternatives to be carried forward for further study. The Corps will consider the following alternatives in the draft Feasibility Report and EIS:

a. Alternative Plan 1

Increment 1 (Bar, Entrance, North Bay, Eureka, and Samoa Channels)

Option 1. Option 1 involves deepening and selective widening of the Bar, Entrance, North Bay, Samoa and Outer Eureka Channels. Implementation of this plan would allow deep draft vessels to operate at deeper drafts with a resultant savings in transportation costs. Deep draft vessels would be able to navigate the channels safely.

Option 2. Option 2 of Increment 1—Bar, Entrance, North Bay, Samoa and Outer Eureka Channels are the same as Option 1, except that it includes the creation of a new turning basin at the intersection of the Samoa and Eureka Channels. This new turning basin would have a diameter of 1,000 feet and would be dredged to project depth. Implementation of this plan would allow deep draft vessels to safely operate at deeper drafts as well as reduce travel distance to three terminals located along the North Spit, with a resultant savings in transportation costs.

Increment 2—Fields Landing Channel

The Reconnaissance Report investigated this South Bay Increment which involved deepening and selective widening of the Fields Landing Channel with options for improving or creating a new turning basin. This increment has been dropped from consideration in the Feasibility Study and EIS as Federal participation is not recommended for proposed projects relating to single owner property (Privately owned and operated for profit) as described in Engineer Regulation 1165–2–123, dated August 31, 1989.

b. Alternate Plan 2

No Action Plan

The no action plan would result in continued navigation problems for deep draft vessels in Humboldt Harbor and Bay through failure to provide safe and efficient passage.

Corps Scoping Process

Pursuant to the National Environmental Policy Act, as amended, agency planning for Federal projects must include a scoping process. Scoping primarily involves determining the scope of issues to be addressed, and identifying the significant issues for in-depth analysis. The scoping process includes public anticipation in order to integrate information regarding public participation in order to integrate information regarding public needs and concerns in to the environmental document.

a. A scoping meeting will be held at 2:30 p.m. and at 7:30 p.m. on September 12, 1990, at the Humboldt Bay Harbor, Recreation & Conservation District's Conference Room, located on Woodly Island Marina, Eureka, California. Written comments may be sent to the U.S. Army Corps of Engineers, San Francisco District, 211 Main Street, San Francisco, California 94105–1905, ATTN: Environmental Branch (Dave Hodges). Written comments should be received no later than 45 days after the date of NOI publication. Governmental agencies, public and private interest groups, and the public are invited to participate in the scoping process.

b. The Corps is planning to conduct in-depth studies of the following issues:

(1) Water quality (sediment sampling and analysis).
(2) Fish and wildlife resources and habitat.
(3) Estuary and ocean shoaling.
(4) Deep draft vessel simulation.

c. Environmental review and other consultation requirements applicable to EIS preparation include:

(1) National Environmental Policy Act, as amended.
(2) Clean Air Act, as amended.
(3) Clean Water Act, as amended.
(4) Archaeological and Historic Preservation Act.
(5) National Historic Preservation Act, as amended.
(6) Executive Order 11593—Protection and Enhancement of the Cultural Environment.
(7) Fish and Wildlife Coordination Act.
(8) Endangered Species Act, as amended.

City and County plans and ordinances, as well as other applicable statutes or regulations, will be addressed during preparation of the draft EIS.

Availability of Report

The Corps expects to complete preparation of the draft Feasibility Report and EIS and have review copies of it available on or before November 4, 1992.

John O. Roach,

Department of the Army Liaison Officer with the Federal Register.

[FR Doc. 90–20154 Filed 8–27–90; 8:45 am]

BILLING CODE 3710–FS–M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education Intent To Repay to the New York State Education Department Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Intent to award grantback funds.

SUMMARY: Under section 456 of the General Education Provisions Act (GEPA), 20 U.S.C. 1234e (1982), the U.S. Secretary of Education (Secretary) intends to repay to the New York State Education Department, the State educational agency (SEA), $4,924,393 of $6,565,858 recovered by the U.S. Department of Education (Department) as a result of a final audit determination. This notice describes the SEA's plan, submitted on behalf of the New York City Board of Education, the local educational agency (LEA), for the use of the repaid funds and the terms and conditions under which the Secretary intends to make those funds available. The notice invites comments on the proposed grantback.

DATES: All written comments must be received on or before September 27, 1990.

ADDRESSES: All written comments should be submitted to Dr. Thomas Fagan, Acting Director, Division of Program Support, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 2043), Washington, DC 20202–6132.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas Fagan. Telephone: (202) 401–1682.

SUPPLEMENTARY INFORMATION:

A. Background

The Department has recovered $6,565,858 from the New York SEA in response to claims arising from a Federal audit covering fiscal years (FYs) 1982 through 1984 and a follow-up review by the SEA covering FYs 1985 and 1986.

The claims involved the SEA's administration of title I of the Elementary and Secondary Education Act of 1965 (title I) and chapter 1 of the Education Consolidation and Improvement Act of 1981 (chapter 1), programs that addressed the special educational needs of educationally deprived children in areas with high concentrations of children from low-income families. Specifically, the final audit determinations of the Assistant Secretary for Elementary and Secondary

Education (Assistant Secretary) found that, during FYs 1982–84, the LEA did not satisfy the title I and chapter 1 requirements in 20 U.S.C. 2734(a) and 20 U.S.C. 3804(c) that funds must be used only for programs and projects designed to meet the special educational needs of children selected for participation in these programs. The Assistant Secretary's final determinations found that the LEA improperly charged title I/chapter 1 for salaries and related costs for non-chapter 1 high school teachers and teachers on Dmedical or sabbatical leave, and for duplicate charges for salaries and related costs for high school teachers. The Assistant Secretary also supported the auditors' findings that the LEA did not satisfy the requirements in 34 CFR 200.61(a) for title I and section 555(c) of chapter 1 that title I/chapter 1 teachers must not be assigned homeroom supervision duties, and that title I/chapter 1 teachers must not exceed the maximum 10 percent of time allowed for noninstructional duties. In addition, the Assistant Secretary found that the LEA could not document that teachers' activities during unassigned periods benefitted the title I/chapter 1 program, thereby violating title I requirements in 34 CFR 200.140 and chapter 1 requirements in 34 CFR 200.56. The final audit determinations also found that the LEA failed to maintain appropriate time distribution records for salary costs for coordination activities that benefitted more than one program as required under title I by 34 CFR part 74, appendix C, part II, B.10.b or equivalent records required under chapter 1 by 47 FR 52343 (November 19, 1982).

As the result of these findings, the Assistant Secretary determined that the LEA charged $11,156,000 to title I and chapter 1 for unallowable costs for teachers' salaries and related expenditures during FYs 1982–84. In addition, the SEA's review of similar claims for FYs 1985 and 1986, which was required by the Assistant Secretary's final audit determination, identified additional disallowed costs totalling $1,856,229. The SEA admitted liability for $3,290,300 and returned that amount to the Department on May 18, 1987, and on June 23, 1988 repaid the additional $1,856,229 identified by the SEA. The SEA appealed the remaining determinations of the Assistant Secretary to the Education Appeal Board. On April 6, 1989, the parties in the case entered into a settlement agreement in which the SEA agreed to repay the Department an additional $1,419,329, which the SEA refunded on June 13, 1989, in full settlement of the claims at issue in the appeal, thus bringing the amount repaid by the SEA to a total of $6,565,858.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA, 20 U.S.C. 1234e(a), provides that whenever the Secretary has recovered funds following a final audit determination with respect to an application program, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the SEA or LEA affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this "grantback" arrangement if the Secretary determines that the—

(1) Practices and procedures of the SEA or LEA that resulted in the audit determination have been corrected, and the SEA or LEA is, in all other respects, in compliance with the requirements of the applicable program;

(2) SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) Use of funds to be awarded under the grantback arrangement in accordance with the SEA's plan would serve to achieve the purposes of the program under which the funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

Pursuant to section 456(a)(2) of the GEPA, the SEA has applied for a grantback of $4,924,393 and has submitted a plan on behalf of the LEA for use of the grantback funds to meet the special educational needs of educationally deprived children in programs administered under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended.

According to the three-part plan, the LEA would use $2,467,725 of the grantback funds to purchase equipment and software to augment the regular chapter 1 program in 61 high schools. Under the second part of the plan, $1,392,171 would be used to provide supplemental supportive services during school year 1990–91 to approximately 3,200 chapter 1 students who otherwise would not receive chapter 1 supplemental guidance services. Under the third part of the plan, $1,064,497 would be used for 18 self-contained replacement classes made up of chapter 1 students wth severe reading problems. The replacement classes would meet for five periods daily during school years 1990–91 and 1991–92. The teachers' salaries for these classes would be funded equally by grantback funds and tax levy. The chapter 1 teacher positions that would be freed up at 18 schools would be used to serve approximately 1,200 additional eligible high school students. Equitable services would be provided to eligible nonpublic school students in the attendance areas of the participating high schools.

D. The Secretary's Determinations

The Secretary has carefully reviewed the plan submitted by the SEA. Based upon that review, the Secretary has determined that the conditions under section 456 of GEPA have been met.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action. In finding that the conditions of section 456 of GEPA have been met, the Secretary makes no determination concerning any pending audit recommendations or final audit determinations.

E. Notice of the Secretary's Intent To Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires that, at least 30 days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the Federal Register a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 456(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the New York SEA under a grantback arrangement. The grantback award would be in the amount of $4,924,393, which is 75 percent—the maximum percentage authorized by the statute—of the funds recovered by the Department as a result of the audit.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Would Be Made

The SEA and LEA agree to comply with the following terms and conditions under which payment under a grantback arrangement would be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements, including the requirement to provide equitable

services to eligible nonpublic school pupils;

(b) The plan that the SEA submitted and any amendments to that plan that are approved in advance by the Secretary; and

(c) The budget that was submitted with the plan and any amendments to the budget that are approved in advance by the Secretary.

(2) Under the grantback arrangement $2,467,725 of the funds must be obligated by September 30, 1990; $1,392,171 by August 31, 1991; and $1,064,497 by June 30, 1992 in accordance with section 456(c) of GEPA and the SEA's plan.

(3) The SEA, on behalf of the LEA, will, not later than January 1, 1991, January 1, 1992, and January 1, 1993, submit a report to the Secretary which—

(a) Indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and approved budget, and

(b) Describes the results and effectiveness of the project for which the funds were spent.

(4) Separate accounting records must be maintained documenting the expenditures of funds awarded under the grantback arrangement.

(5) Before funds will be repaid pursuant to this notice, the SEA must repay to the Department any debts that become overdue, or enter into a repayment agreement for those debts.

Dated: August 22, 1990.

(Catalog of Federal Domestic Assistance Number 84.010, Educationally Deprived Children—Local Educational Agencies)

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 90-20204 Filed 8-27-90; 8:45 am]

BILLING CODE 4000-01-M

Office of Vocational and Adult Education

Intent To Repay to the New Jersey Department of Education Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Intent to award grantback funds.

SUMMARY: Under section 456 of the General Educatioin Provisions Act (GEPA), 20 U.S.C. 1234e (1982), the provision in effect when the final audit determinatioin was made, the Secretary of Education (Secretary) intends to repay to the New Jersey Department of Education (State) under a grantback arrangement an amount equal to 75 percent of the funds recovered by the Department of Education as a result of a final audit determination. This notice describes the State's plan for the use of funds which the Secretary intends to make available and invites comments on the proposed grantback.

DATES: All written comments should be received on or before September 27, 1990.

ADDRESSES: All written comments should be submitted to Dr. Marcel R. DuVall, Chief, Division of Vocational-Technical Education, Office of Vocational and Adult Education, U.S. Department of Education, (Room 4315, Mary E. Switzer Building), 400 Maryland Avenue, SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Marcel R. DuVall, (202) 732-2441.

SUPPLEMENTARY INFORMATION:

A. Background

The Department of Education (Department) recovered $557,500 from the New Jersey State Department of Education (State) in satisfaction of claims arising from two State audits and one Federal audit of Federal programs (audit control numbers: 02-15626, 02-25001 and 02-20103). The audit claims involved the State's administration of the Vocational Education Act, as amended, 20 U.S.C. 2301 *et seq.* (1982) (VEA), during the period from July 1, 1977 through June 30, 1980; and title I of the Elementary and Secondary Education Act of 1965 (Title I) and part B of the Education of the Handicapped Act (EHA-B) during the period July 1, 1978 through June 30, 1980. Specifically, the Department's final audit determination was based on the audit finding that the State failed to maintain time distribution records to support State employees' salaries paid from Federal funds as required by the cost principles set forth in 45 CFR part 74, App. C., part II, B, 10, b (1979). Of the $557,500 repaid to the Department, $73,353 was for unsupported VEA funds. The Department previously awarded the State a grantback of $264,042 of funds recovered under title I. (*See* 53 FR 38763 (1988).) The State also has applied for grantback of funds recovered under EHA-B, which is currently pending.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA, 20 U.S.C. 1234e(a) (1982), provides that whenever the Secretary has recoverd funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the State agency affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this so-called "grantback" arrangement if the Secretary determines that—

(1) The practices and procedures of the State that resulted in the audit determination have been corrected, and that the State, in all other respects, is in compliance with the requirements of the applicable program;

(2) The State has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) The use of the funds to be awarded under the grantback arrangement in accordance with the State's plan would serve to achieve the purposes of the program under which funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Agreement

Pursuant to section 456(a)(2) of GEPA, the State has applied for a grantback of $55,016 of VEA funds and has submitted a plan to use the proposed grantback funds consistently with section 502 of the Carl D. Perkins Vocational Education Act (Perkins Act), 20 U.S.C. 2301 *et seq.* (Supp. IV 1986). The audit findings against the State resulted from improper expenditures of VEA funds. However, since the Perkins Act has superseded the VEA, the State's proposal reflects the requirements of the Perkins Act.

The State proposes to use grantback funds to purchase a portion of the overall package needed to expand the information processing capacity of its Division of Vocational Education, including terminals, terminal servers, and printers.

D. The Secretary's Determination

The Secretary has carefully reviewed the request for repayment of funds, the plan, and other information submitted by the State. Based upn that review, the Secretary has determined that the conditions under section 456 of GEPA have been met.

These determinations are based upon the best informatiion available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action.

E. Notice of the Secretary's Intent to Enter into a Grantback Arrangement

Section 456(d) of GEPA requires that, at least thirty days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the Federal Register a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with the requirement of section 456(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the New Jersey Department of Education under a grantback arrangement. The grantback award would be in the amount of $55,014.75 which is 75 percent of the $73,353 of the VEA funds recovered by the Department as a result of the audit settlement.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Will Be Made

The State agrees to comply with the following terms and conditions under which payments under a grantback arrangement would be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements; and

(b) The plan that was submtted in conjunction with the grantback request dated February 24, 1989, as amended on June 1, 1989, and September 28, 1989, and any other amendments to the plan that are approved in advance by the Secretary.

(2) All funds received under the grantback arrangement must be obligated by September 30, 1990, in accordance with section 456(c) of GEPA and the State's plan.

(3) The State must submit a report to the Secretary by December 31, 1990, which—

(a) Indicates how the funds awarded under the grantback have been used;

(b) Shows that the obligations of the funds awarded under the grantback have been liquidated; and

(c) Describes the results and effectiveness of the project for which the funds were spent.

(4) Separate accounting records must be maintained, documenting the expenditures of funds awarded under the grantback arrangement.

(Catalog of Federal Domestic Assistance Number 84.048, Basic Grants to the States for Vocational Education)

Dated: August 23, 1990.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 90-20354 Filed 8-27-90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Award of a Grant, Noncompetitive Financial Assistance

AGENCY: Department of Energy (DOE), Nevada Operations Office.

ACTION: Notice of noncompetitive financial assistance.

SUMMARY: DOE announces that pursuant to the DOE Financial Assistance Rules, 10 CFR 600.14(e)(1), it intends to award a noncompetitive financial assistance grant to the state of Mississippi to improve the accountability of DOE in the areas of environmental protection and public health and safety.

This award will provide funds to chart a new course for DOE toward full accountability in the areas of environmental protection and public health and safety.

PROJECT SCOPE: The state of Mississippi will provide independent validation of environmental compliance data, establish environmental cleanup schedules, and provide a mechanism for assisting DOE to prioritize its cleanup activities.

The state of Mississippi will assume a more substantive role in overseeing DOE's compliance with state environmental laws, and to help it to assure the citizens of Mississippi that DOE operations do not constitute a health hazard.

Eligibility for the award of this grant is being limited to the state of Mississippi because the applicant is a unit of government, and the activity to be supported is related to performance of a governmental function within the subject's jurisdiction, thereby precluding DOE provisions of support to another entity.

The term of this grant is for 5 years, and will commence October 1, 1990, and end September 30, 1995. The total estimated cost of this award is $2.5 million.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Nevada Operations Office, ATTN: Donald R. Elle, P.O. Box 98518, Las Vegas, NV 89193-8518.

Issued in Las Vegas, Nevada on August 17, 1990.

Nick C. Aquilina,

Manager.

[FR Doc. 90-20252 Filed 8-27-90; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the attached energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (2) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: OMB approval is requested by August 28, 1990.

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.).

FOR FURTHER INFORMATION CONTACT: Jay Casselberry, Office of Statistical Standards, (EI-73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586-2171.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Energy Information Administration
2. EIA–877
3. N.A.
4. Winter Heating Fuels Telephone Survey
5. New—The Energy Information Administration requests expedited OMB processing by August 28, 1990, to conduct a semi-monthly (weekly if necessary) telephone survey to collect information on State-level stocks and residential prices of No. 2 heating oil and propane. The survey will be conducted only during the heating season, i.e., beginning October 1, 1990, and continuing through March 31, 1991. The hardships experienced by propane and heating oil users during the December 1989 cold-snap in the Northeast and Mid-Continent areas made the need for timely State level price and inventory information on these fuels obvious to the Federal and State governments, industry analysts, and Congressional Committees. The severe weather contributed to supply shortages and large price increases for both heating oil and propane. Very little information on propane and heating oil supplies or prices were available to the government or industry to help them monitor these shortages. EIA believes that this collection is vital to fill this "gap" in energy data.
6. Semi-monthly (weekly if emergency arises)
7. Mandatory
8. Businesses or other for profit
9. 1,350 respondents
10. 12 responses annually
11. .25 hours per response
12. 4,050 hours
13. EIA–877 will collect data via telephone on residential prices and stock levels of No. 2 heating oil and propane. The data will be used to monitor No. 2 heating oil and propane during the heating season and to report to the Congress and others. Respondents will be selected retailers and storers of No. 2 heating oil and propane in PAD Dsitricts I and II.

Authority: Sections 5(a), 5(b), 13(b), and 52, Pub. L. 93–275, Federal Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, August 21, 1990.

Yvonne Bishop,

Director, Statistical Standards, Energy Information Administration.

BILLING CODE 6450-01-M

EIA-877

Energy Information Administration
U.S. DEPARTMENT OF ENERGY

Form Approved
O.M.B. No.
Expiration Date:

WINTER HEATING FUELS TELEPHONE SURVEY
FORM EIA-877

PART I. IDENTIFICATION DATA

DOE ID No. | | | | | | | | | | |

Complete the items below for new respondents and corrections to label only.

Name

Name of Contact Person

Contact's Telephone Number ( ) -

Street/Box/RFD

City State Zip Code

Reference Dates: Price as of Monday: Month Day Year

Inventory as of Friday: Month Day Year

PART II. PRICE AND INVENTORY DATA

STATE	No. 2 HEATING OIL		PROPANE	
State Abbreviation (a)	Residential Price ($0.000 per gallon) (b)	Inventory (000's of gallons) (c)	Residential Price ($0.000 per gallon) (d)	Inventory (000's of gallons) (e)

PART III. ANNUAL RESIDENTIAL PROPANE SALES DATA (asked during first telephone call only)

	State Abbreviation	Volume of Residential Sales (000's of gallons)
Enter the approximate statewide volume of propane sold to residences between September 1, 1989 and August 31, 1990		

PART IV. CERTIFICATION

Name (please print) _____ Title _____

Signature _____ Date _____

Title 18, U.S.C. 1001 makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

BILLING CODE 6450-01-C

U.S. Department of Energy, Energy Information Administration, Winter Heating Fuels Telephone Survey, Form EIA–877, Instructions

I. Purpose

The Form EIA–877 is being used by the U.S. Department of Energy's (DOE) Energy Information Administration (EIA) in accordance with section 13(b) of the Federal Energy Administration (FEA) Act of 1974 (Pub. L. 93–275).

This mandatory survey is designed to collect data on State level stocks and residential prices of No. 2 heating oil and propane during the heating season. The data collected will be used to monitor the stocks and prices of propane and No. 2 heating oil during the heating season and to report to the Congress and others when requested.

II. Who Must Submit

The Form EIA–877 must be completed by a scientifically selected sample of No. 2 heating oil and propane dealers.

III. When to Submit

The data collected on Form EIA–877 are requested twice a month by telephone. Telephone calls to respondents start on the 1st Monday and 3rd Monday of the month. No written confirmation of your data submission is required. When emergency conditions exist (*e.g.*, severe or extended period of coal weather or serve supply shortages), survey respondents will be asked to respond to Form EIA–877 on a weekly basis. If an emergency situation should arise, survey respondents will be notified via telephone.

IV. Where to Submit

Survey forms can also be submitted by facsimile or toll-free telephone.

Facsimile:

Telephone No.: (202) 586–4913.
Verification No.: (202) 586–6559.

To ensure receipt of complete legible data, companies should call the verification number upon completion of transmissions and obtain the name of the person who verified receipt of their data.

A toll-free telephone number [(800) xxx–xxxx] is also provided for use in submitting data.

If you have any questions concerning these instructions, please contact the Form EIA–877 Project Manager at (202) 586–xxxx.

V. Form Completion Procedures

Part I. Identification Data

Report corrections to information contained on the label if the label is incomplete or incorrect.

DOE Identification (ID) Number.

Your DOE identification (ID) number is the 10-digit number printed on the label.

References Dates

The report period for prices is the 1st and 3rd Monday of each month from October 1 through March 31.

The report period for inventories is the Friday before the 1st and 3rd Monday of each month.

During an emergency situation as described in section III above, prices will be as of each Monday and inventories will be as of the previous Friday.

Indicate month, day, and year (e.g., November 5, 1990 is: Month *11* Day *05* Year *90*).

Part II. Price and Inventory Data

A. State. Data will be collected only for those States listed in Table 1. Report data for the States identified on the Identification Data label affixed to the form.

B. Price data. Enter the price per gallon (including all taxes) for residential customers of No. 2 heating oil and propane on the reference day. The price should be for local residential customers with storage tanks of approximately 275 gallons. Thus, the price should exclude surcharges for customers living outside the normal delivery area. It should also exclude discounts or premiums paid for small or large volume purchases. The price is collected for residential customers located in the States reported in column (a) State abbreviation. Residential customers are defined as individual customers or households (as opposed to businesses or institutions) who use the fuel to heat their residences. Sales to apartment buildings or to other multi-family dwellings are excluded from the "Residential Sales" category.

If the respondent has more than one establishment within the State and the residential sales price varies by establishment, the respondent should provide the average price for the different locations. For example, if the respondent owns two fuel oil establishments in the State and one sells to residences for $.94 per gallon and the other for $.99 per gallon, the reported price would be

$$\frac{.94+.99}{2}=\$.965.$$

Prices reported should be rounded to the nearest tenth of a cent. Accordingly, 979/10 cents is shown as .979.

C. Inventory data. Report all quantities in inventory regardless of the intended end-use sales, to the nearest whole number in thousand of U.S. gallons. Quantities ending in 499 or less are rounded down, and quantities ending in 500 or more are rounded up (*e.g.*, 106,499 gallons are reported as 106 and 106,500 gallons are reported as 107).

Report data only for those States which are applicable to your operation and are listed in Table 1. Report all stocks in the custody of your company regardless of either ownership or end-use. Reported stock quantities should represent actual measured inventories where an actual physical measurement is possible.

Part III. Annual Residential Propane Sales Data

The first time a firm is contacted, it will be required to report the approximate sales volume of propane it sold to residential customers during the period September 1, 1989 through August 31, 1990. Sales will be requested by State for selected States in which the company does business. The sales should be assigned to a given State based on customer location. Residential customers are defined as individual customers or households (as opposed to businesses or institutions) who use the fuel to heat their residences. Sales to apartment buildings or to other multi-family dwellings are excluded from the "Residential Sales" category.

Sales volumes should be entered in thousands of gallons. Round numbers to the nearest thousand, *e.g.* enter 6,500 gallons as 7, enter 6,400 gallons as 6.

VI. Provisions Regarding Confidentiality of Information

The information contained on this form will be kept confidential to the extent that is satisfies the criteria for exemption in the Freedom of Information Act (FOIA), 5 U.S.C. 552, the DOE regulations implementing the FOIA 10 CFR 1004.11, and the Trade Secrets Act, 18 U.S.C. 1905.

Upon receipt of a request for this information under the FOIA, the DOE shall make a final determination whether the information is exempt from disclosure in accordance with procedures and criteria provided in the regulations. To assist us in this determination, respondents should demonstrate to the DOE that, for example, their information contains trade secrets or commercial or financial information whose release would be likely to cause substantial harm to their company's competitive position. A letter accompanying the submission that explains (on an element-by-element basis) the reasons why the information would be likely to cause the respondent substantial competitive harm if released to the public would aid in this determination. A new justification does not need to be provided each time information is submitted on the form if the company has previously submitted a justification for that information and the justification has not changed.

Except as otherwise provided by law, the information may be made available in response to an order of a Court of competent jurisdiction, or, upon request, to other components of the DOE, to any Committee of Congress, the General Accounting Office, or other Congressional agencies authorized by law to receive such information. Detailed provisions of the restrictions on the disclosure of this information can be found in the Policy on the Disclosure of Individually Identifiable Energy Information in the Possession of the EIA (45 FR 59812(1980)).

VII. Sanctions

The timely submission of Form EIA–877 by a firm required to report is mandatory under section 13(b) of the Federal Energy Administration (FEA) Act of 1974, Public Law 92–275. Late filing, failure to file, failure to keep records, or failure otherwise to comply with these instructions, may result in criminal fines, civil penalties, and other sanctions as provided by section 13(i) of the FEA Act.

TABLE 1.—LIST OF STANDARD STATE ABBREVIATIONS

CT	Connecticut.
DE	Delaware.
DC	District of Columbia.
IL	Illinois.
IN	Indiana.
IA	Iowa.
KS	Kansas.
ME	Maine.
MD	Maryland.
MA	Massachusetts.
MI	Michigan.
MN	Minnesota.
MO	Missouri.
NE	Nebraska.
NH	New Hampshire.
NJ	New Jersey.
NY	New York.
NC	North Carolina.
ND	North Dakota.
OH	Ohio.
PA	Pennsylvania.
RI	Rhode Island.
SD	South Dakota.
TN	Tennessee.
VT	Vermont.
VA	Virginia.
WI	Wisconsin.
WV	West Virginia

[FR Doc. 90-20256 Filed 8-27-90; 8:45 am]
BILLING CODE 6450-01-M

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, *e.g.*, new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Under the provisions of 5 CFR 1320.15 and 1320.18, the Agency has requested that the Office of Management and Budget take action by August 16, 1990.

ADDRESSES: Direct comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards, (EI-73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586-2171.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Energy Information Administration
2. EIA-878
3. N.A.
4. Daily Motor Gasoline Price Survey
5. New
6. Daily
7. Mandatory
8. Businesses or other for profit
9. 200 respondents
10. 64 responses
11. .05 hours per response (3 minutes)
12. 640 hours
13. EIA-878, a daily telephone survey, will be used to collect information on the retail price of unleaded regular motor gasoline on a daily basis. Data will be used by the EIA to monitor prices during the Middle East crisis. Respondents will be companies that own retail motor gasoline stations.

Authority: Sec. 5(a), 5(b), 13(b), and 52, Pub. L. 93-275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, August 21, 1990.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 90-20257 Filed 8-27-90; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP90-1983-000, et al.]

Arkla Energy Resources, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Arkla Energy Resources, a division of Arkla, Inc.

[Docket No. CP90-1983-000]

August 16, 1990.

Take notice that on August 14, 1990, Arkla Energy Resources, a division of Arkla, Inc. (AER), Post Office Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP90-1983-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to construct and operate certain facilities under AER's blanket certificate issued in Docket Nos. CP82-384-000 and CP82-384-001 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

AER proposes to construct and operate two sales taps for deliveries of natural gas to Arkansas Louisiana Gas Company (ALG) for resale to one domestic customer in Union County, Arkansas, and one domestic customer in Commanche County, Oklahoma. It is estimated that the initial peak day and annual deliveries would be 1 Mcf and 85 Mcf for the tap in Arkansas and 1 Mcf and 110 Mcf for the tap in Oklahoma. It is estimated that the cost of each of the proposed facilities would be $1,900, with a total of $3,800. It is asserted that the gas would come from AER's general system supply and that the system supply would be adequate to provide the service.

In addition, AER proposes to use an existing sales tap in Claiborne Parish, Louisiana, for the delivery of 1 Mcf on a peak day and 85 Mcf annually to ALG for resale to one domestic customer, in addition to the right of way grantor that the tap was installed to serve. AER states that the gas required for the proposed service would be delivered from its general system supply which is adequate to provide such service.

Comment date: October 1, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. Kentucky West Virginia Gas Co. and Columbia Gas Transmission Corp.

[Docket Nos. CP90-1984-000; CP90-1985-000]

August 16, 1990.

Take notice that on August 14, 1990, Kentucky West Virginia Gas Company (Kentucky West), P.O. Box 1388, Ashland, Kentucky 41105-1388 and Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325-2326 filed requests for authorization in Docket Nos. CP90-1984-000 and CP90-1985-000 to abandon certain firm sales and transportation services, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In Article III of a stipulation and agreement between Kentucky West and Columbia filed August 14, 1990, in Docket Nos. TQ89-1-46-000, et al., Kentucky West and Columbia propose the abandonment of firm sales service to Columbia under Kentucky West's Rate Schedule PLS-1, under which sales service of up to 16,374 dth per day (dry) is provided by Kentucky West to Columbia. Effective upon the Commission's approval of the stipulation and agreement, Kentucky West and Columbia shall cancel, on an interim basis, the service agreement between them dated October 18, 1977, whereby service under Rate Schedule PLS-1 is provided. The stipulation and agreement provides that such interim cancellation shall be made permanent upon issuance of a final and non-appealable order approving the stipulation and agreement without modification unacceptable to Columbia and Kentucky West.

In Article IV of the stipulation and agreement, Columbia and Equitrans Inc. (Equitrans), a Kentucky West affiliate and additional signatory to the stipulation and agreement, propose abandonment of firm transportation service to Equitrans under Columbia's Rate Schedule X-70. Upon issuance of a Commission order approving the Stipulation and agreement without modification unacceptable to Kentucky West or Columbia, Equitrans shall convert its firm transportation entitlement on Columbia of 72,056 dth per day (dry) (plus retainage), under Columbia's Rate Schedule X-70, to Rate Schedule FTS service on Columbia. The converted service will be expanded to include the additional FTS capacity of the 15,969 dth per day (dry) (plus retainage) which was previously available to Columbia on its system to transport gas purchased from Kentucky West. In regard to the resulting total FTS transportation capacity on Columbia of 88,025 dth per day (dry) (plus retainage) thereby available, Columbia agrees to waive any pregranted abandonment authorization prior to discontinuing service under such agreements, consistent with Columbia's "Global Settlement" approved by the Commission on October 19, 1990, in Docket Nos. RP86-168, et al. Upon Commission approval of the stipulation and agreement, Columbia and Equitrans and/or its affiliates shall enter into four (4) transportation agreements. Equitrans shall have the right to assign to an affiliate all or any part of its FTS transportation service of 88,025 dth per day (dry) (plus retainage) on Columbia prior to the execution of the four firm transportation agreements.

Comment date: August 31, 1990, in accordance with Standard Paragraph F at the end of this notice.

3. Arkla Energy Resources, a division of Arkla, Inc.

[Docket No. CP90-1863-000]

August 17, 1990.

Take notice that on July 31, 1990, Arkla Energy Resources (Arkla), a division of Arkla, Inc., Post Office Box 21734, Shreveport, Louisiana 71151, filed an application with the Commission in Docket No. CP90-1863-000 pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon partially and fully a sales service to Williams Natural Gas Company (Williams) all as more fully set forth in the application which is open to public inspection.

Arkla states that pursuant to agreements with Williams, the contract demand under Arkla's Rate Schedule No. X-26 and the underlying Gas Service Agreement with Williams was reduced from an original level of 99,457 Mcfd to 85,000 Mcfd effective February 1, 1987, to 70,000 Mcfd as of February 1, 1988, and to 20,000 Mcfd effective July 1, 1988. It is further stated that effective July 1, 1989, the contract demand was reduced to zero and the service agreement was terminated. Arkla seeks authority to partially and fully abandon sales service to Williams retroactively to those dates as reflected in the offer of settlement filed in Docket Nos. RP88-45 et al.

Comment date: September 7, 1990, in accordance with Standard Paragraph F at the end of this notice.

4. Natural Gas Pipeline Co. of America; Equitrans, Inc.

[Docket Nos. CP90-1990-000; CP90-1991-000; CP90-1994-000; CP90-1995-000]

August 16, 1990.

Take notice that Natural Gas Pipeline Company of America, 701 East 22nd Street, Lombard, Illinois 60148, and Equitrans, Inc., 3500 Park Lane, Pittsburgh, Pennsylvania 15275 (Applicants), filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificate issued in Docket No. CP86-582-000 and Docket No. CP86-553-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: October 1, 1990, in accordance with Standard Paragraph G at the end of this notice.

Docket number (date filed)	Shipper name (type)	Peak day average day annual MMBtu	Receipt [1] points	Delivery points	Contract date rate schedule service type	Related docket start up date
CP90-1990-000 (8-15-90)	Phillips Gas Marketing Co. (marketer).	30,000 15,000 5,475,000	Various	LA, OLA, IL, IA, OK, CO, NM, TX, OTX.	4-6-90,[2] ITS, Interruptible.	ST90-4049-000, 6-1-90.

[1] These prior notice requests are not consolidated.

Docket number (date filed)	Shipper name (type)	Peak day average day annual MMBtu	Receipt [1] points	Delivery points	Contract date rate schedule service type	Related docket start up date
CP90-1991-000 (8-15-90)	Access Energy Corporation (marketer).	200,000 75,000 27,375,000	Various	Various	7-5-89,[3] ITS, Interruptible.	ST90-4050-000, 6-1-90.
CP90-1994-000 (8-15-90)	Bethlehem Steel Corporation.	2,090 2,090 762,850	PA	PA	7-16-90, FTS, Firm	ST90-4138-000, 7-1-90.
CP90-1995-000 (8-15-90)	Phoenix Diversified Ventures, Inc.	1,024 1,024 373,760	PA	PA	6-25-90, FTS Firm	ST90-4045-000, 7-1-90.

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.
[2] As amended May 7, 1990.
[3] As amended May 2, 1990.

5. Trunkline Gas Co.; Southern Natural Gas Co.; Southern Natural Gas Co.

[Docket Nos. CP90-1979-000; CP90-1987-000; CP90-1988-000]

August 17, 1990.

Take notice that the above referenced companies (Applicants) filed in respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also state that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: October 1, 1990, in accordance with Standard Paragraph G at the end of the notice.

[2] These prior notice requests are not consolidated.

Docket number (date filed)	Applicant	Shipper name	Peak day average annual [1]	Points of		Start up date rate schedule	Related dockets [2]
				Receipt	Delivery		
CP90-1979-000 (8-14-90).	Trunkline Gas Company, P.O. Box 1642, Houston, TX 77251-1642.	Coastal Gas Marketing Company.	200,000Mcf 200,000Mcf 73,000,000Mcf	Off. LA, Off. TX	Off. TX	7-1-90, PT-I	Cp86-586-000, ST90-3997-000.
CP90-1987-000 (8-14-90).	Southern Natural Gas Company, P.O. Box 2563, Birmingham, AL 35202-2563.	Kogas, Inc.	250,000 10,000 3,650,000	Off. TX, Off. LA, TX, LA, MS, AL.	LA, MS	6-15-90, IT	CP88-316-000, ST90-3642-000.
CP90-1988-000 (8-14-90).	Southern Natural Gas Company, P.O. Box 2563, Birmingham, AL 35202-2563.	Kogas, Inc.	250,000 10,000 3,650,000	Off. TX, Off. LA, TX, LA, MS, AL.	LA	6-15-90 IT	CP88-316-000, ST90-3640-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST Docket is shown, 120-day transportation service was reported in it.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is

required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to §157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shal be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-20164 Filed 8-27-90; 8:45am]

BILLING CODE 6717-01-M

[Docket No. G-6271-000, et al.]

Texaco Producing Inc., et al.; Applications for Termination or Amendment of Certificates [1]

August 21, 1990.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to terminate or amend certificates as described herein, all as more fully described in the respective applications which are on file with the Commission and open to public inspection.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 10, 1990, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.14). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Description
G-6271-000 D 7-19-90	Texaco Producing Inc., P.O. Box 4700, Houston, TX 77210-4700.	Texas Gas Transmission Corporation, Lewisburg Field, Acadia and St. Landry Parishes, Louisiana.	Assigned 1-1-90 to Amerada Hess Corporation.
G-12548-003 D 8-3-90	Oryx Energy Company, P.O. Box 2880, Dallas, TX 75221-2880.	Northern Natural Gas Company, a Division of Enron Corp., Perryton West Field, Ochiltree County, Texas.	Assigned 10-1-89 to McKinney Operating Company.
G-13634-006 D 8-3-90	Oryx Energy Company	Northern Natural Gas Company, a Division of Enron Corp., Hansford Field, Hutchinson County, Texas.	Assigned 10-1-89 to Kerr-McGee Corporation.
CI62-1412-007 D 7-23-90	Oryx Energy Company	Ringwood Gathering Company, Ringwood Field, Alfalfa County, Oklahoma.	Assigned 10-1-89 to Amerox Acquisition Corp.
CI63-1427-002 D 7-23-90	Oryx Energy Company	Arkla Energy Resources, a division of Arkla, Inc., Cooper North Field, Blaine County, Oklahoma.	Assigned 10-1-89 to Amerox Acquisition Corp.
CI67-1085-005 D 7-23-90	Oryx Energy Company	Ringwood Gathering Company, Ringwood Field, Major County, Oklahoma.	Assigned 10-1-89 to Amerox Acquisition Corp.
CI75-424-002 D 8-13-90	Oryx Energy Company	Western Transmission Corporation, Browning Field, Carbon County, Wyoming.	Assigned 10-1-89 to Headington Minerals, Inc.
CI90-145-000 (CI86-548-000) D 7-23-90	Kerr-McGee Corporation, Kerr-McGee Center, Oklahoma City, OK 73125.	CNG Transmission Corporation, various leases in Clearfield County, Pennsylvania.	Assigned 1-1-90 to Shawmut Development Corporation.
CI90-145-000 (CI86-549-000) D 7-23-90	Kerr-McGee Corporation	CNG Transmission Corporation, various leases in Clearfield County, Pennsylvania.	Assigned 1-1-90 to Shawmut Development Corporation.
CI90-145-000 (CI86-555-000) D 7-23-90	Kerr-McGee Corporation	Columbia Gas Transmission Corporation, various leases in Indiana County, Pennsylvania.	Assigned 1-1-90 to Shawmut Development Corporation.
CI90-145-000 (CI89-202-000) D 7-23-90	Kerr-McGee Corporation	CNG Transmission Corporation, various leases in Clearfield County, Pennsylvania.	Assigned 1-1-90 to Shawmut Development Corporation.
CI90-146-000 (G-12548) D 7-23-90	Oryx Energy Company	Northern Natural Gas Company, a Division of Enron Corp., Perryton West Field, Ochiltree County, Texas.	Assigned 10-1-89 to Amerox Acquisition Corp.

—Continued

Docket No. and date filed	Applicant	Purchaser and location	Description
CI90-152-000 (G-13059) D 8-3-90	Oryx Energy Company	Southern Natural Gas Company, Gwinville Field, Jefferson Davis County, Mississippi.	Assigned 1-1-90 to Pierce Petroleum.

Filing Code:
A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Assignment of acreage. E—Succession. F—Partial Succession.

[FR Doc. 90-20165 Filed 8-27-90; 8:45 am]
BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 90-64-NG]

Tennessee Gas Pipeline Co., Application To Export Natural Gas to Mexico or Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice to application for blanket authorization to export natural gas to Mexico or Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on July 20, 1990, of an application filed by Tennessee Gas Pipeline Company (Tennessee) requesting blanket authorization to export from the United States to Mexico or Canada up to 200 Bcf of natural gas over a two-year period commencing with the date of first delivery. Tennessee intends to use existing pipeline facilities within the United States and at the international borders for transportation of the exported gas. Tennessee states that it will advise DOE of the date of first delivery and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.d.t., September 27, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Perry Bolger, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-1789.
Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: Tennessee, a wholly owned subsidiary of Tenneco Inc., is a Delaware corporation with its principal place of business in Houston, Texas. Tennessee intends to export to Mexico or Canada natural gas originating from any domestic or foreign supply source, either for ultimate consumption in Mexico or Canada or for reimportation to the United States as a part of Tennessee's system supply. Specific information regarding the participants and terms and conditions of the proposed exports will be provided once the individual contracts have been negotiated with Mexico or Canadian purchasers.

Tennessee is a natural gas transmission company primarily engaged in the business of purchasing, transporting, and selling natural gas in interstate commerce, under authority granted by and subject to the jurisdiction of the Federal Energy Regulatory Commission. Tennessee states that all export sales will be short-term in nature and that prices will be determined by market conditions.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204-111 and 0204-127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

All parties should be aware that if this blanket export application is granted, the authorization may permit the export of the gas at any point of exit on the international border where existing pipeline facilities are located.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notices of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as

necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Tennessee's application is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., e.d.t., Monday through Friday, except Federal holidays.

Issued in Washington, DC on August 21, 1990.

Anthony Como,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-20253 Filed 8-27-90; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 90-65-NG]

United Mineral Resources, Inc., Application To Export Natural Gas to Mexico

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on July 23, 1990, of an application filed by United Mineral Resources, Inc. (United), requesting blanket authorization to export from the United States to Mexico up to 100 MMcf per day of natural gas over a two-year period commencing with the date of first delivery. United intends to use existing pipeline facilities and any extensions to such facilities for transportation of the exported gas. United states that it will advise the DOE of the date of first delivery and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.d.t., September 26, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Perry Bolger, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-1789.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: United is a Texas corporation with its principal place of business in Dallas. United intends to export natural gas to Mexico for spot market sales both for its own account as well as for the accounts of others. The gas to be exported will be supplied by various individual producers, producer groups, and associations, or pipeline companies who sell natural gas in the United States. The Mexican purchasers of the gas are expected to include, but are not limited to, industrial end users, agricultural users, electric utilities, pipelines, and distribution companies.

United is engaged in the business of exporting natural gas, brokering of natural gas services, and selling and/or arranging for the sale of natural gas for resale to specific end users. United states that all export sales will result from arms-length negotiations and that prices will be determined by market conditions.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204-111 and 0204-127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

All parties should be aware that if this blanket export application is granted, the authorization may specify a two-year aggregate, rather than a daily, volume in order to maximize operating flexibility. The authorization may also permit the export of the gas at any point of exit on the international border where existing pipeline facilities are located.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notices of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the

Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties to this notice, in accordance with 10 CFR 590.316.

A copy of United's application is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., e.d.t., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on August 21, 1990

Anthony J. Como,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-20254 Filed 8-27-90; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. FE C&E 90-16; Certification Notice-64]

Filing Certification of Compliance: Coal Capability of New Electric Powerplant Pursuant to Provisions of the Powerplant and Industrial Fuel Use Act, as Amended

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978, as amended, ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*) provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source (section 201(a), 42 U.S.C. 8311(a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to section 201(d), to the Secretary of Energy prior to construction, to prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. Three owners and operators of proposed new electric base load powerplants have filed self certifications in accordance with section 201(d).

Further information is provided in the SUPPLEMENTARY INFORMATION section below.

SUPPLEMENTARY INFORMATION: The following companies have filed self certifications:

Name	Date received	Type of facility	Megawatt capacity	Location
Coalinga Cogeneration Co., Bakersfield, CA	8-13-90	Simple cycle	38	Fresno County, CA.
Salinas River Cogeneration Co., Bakersfield, CA	8-13-90	Simple cycle	38	Monterey County, CA.
Sargent Canyon Cogeneration Co., Bakersfield, CA	8-13-90	Simple cycle	38	Monterey County, CA.

Amendments to the FUA on May 21, 1987, (Pub. L. 100-42) altered the general prohibitions to include only new electric base load powerplants and to provide for the self certification procedure.

Copies of this self certification may be reviewed in the Office of Fuels Programs, Fossil Energy, room 3F-056, FE-52, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, phone number (202) 586-6769.

Issued in Washington, DC, on August 22, 1990.

Anthony J. Como,

Director, Office of Coal and Electricity, Office of Fuels Programs, Fossil Energy.

[FR Doc. 90-20255 Filed 8-27-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3825-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before September 27, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Administration

Title: Procurement Under Assistance Agreements. (EPA ICR #0973.04; OMB #2090-0013). This request extends the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Abstract: To receive EPA funds to pay for supplies, services, or construction, recipients of EPA assistance (institutions of higher education, hospitals or other non-profit organizations) must apply to EPA award officials. An application consists of the "Procurement System Certification" (EPA form 5700-48), which requests a

list of applicable procurement ordinances, and certification of whether an applicant's procurement system will meet EPA standards; and the "Cost or Price Summary" (EPA form 5700–41), which requests a summary of estimated expenses such as indirect (labor) and direct costs (*e.g.* transportation, per diem). EPA uses this information to determine the cost effectiveness of the contract award and the degree to which recipients comply with required procurement standards.

Burden statement: The public reporting burden for this collection of information is estimated to average four hours and twenty minutes per respondent. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Recipient of EPA assistance

Estimated number of respondents: 1,000

Responses per respondents: 1

Estimated total annual burden on respondents: 7,926

Frequency of collection: On occasion

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street SW., Washington, DC 20460

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

OMB Response To Agency PRA Clearance Request

EPA ICR #1206; Survey of Machinery Manufacturing and Rebuilding (Revised); was approved 07/16/90; OMB #2040–0148; expires 01/31/92.

EPA ICR #1432.04; Protection of Stratospheric Ozone: Reporting and Recordkeeping Requirements; was approved 08/07/90; OMB #2060–0170; expires 01/31/92.

EPA ICR #1052.03; NSPS for Fossil Rule-Fired Steam Generating Units, Compliance Requirements for subpart D; was approved 08/07/90; OMB #2060–0026; expires 08/31/93.

EPA ICR #1178–02; NSPS for SOCMI Reactor Processes—Reporting and Recordkeeping; was not approved 08/07/90.

Dated: August 22, 1990.

Paul Lapsley,

Director Regulatory Management Division.

[FR Doc. 90–20215 Filed 8–27–90; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Sheila Ann Adams et al.

1. The Commission has before it the following mutually exclusive applications for 5 new FM stations:

Applicant, city/state	File No.	MM docket No.
I.		
A. Sheila Ann Adams, Marianna, Fl.	BPH–880629MJ	90–359
B. Jackson Radio, Ltd., Marianna, Fl.	BPH–880630MG	
Issue Heading and Applicants 1. Air Hazard, A 2. Comparative, A, B 3. Ultimate, A, B		
II.		
A. Ruth Harper Dunn t/r Lauderdale Broadcasting Co., Ripley, TN.	BPH–871007MA	90–360
B. Craig Fitzhugh, Ripley, TN.	BPH–871008MH	
C. Harold L. Drumwright d/b/a H&L Partnership, A Limited Partnership, Ripley, TN.	BPH–871006MJ	
Issue Heading and Applicants 2. *Comparative, A, B, C* 2. Ultimate, A, B, C		
III.		
A. Jeanne T. Haefner, North Cape May, NJ.	BPH–880727MC	90–354
B. Elena G. Nacanther, North Cape May, NJ.	BPH–880728MC	
C. Jeffrey E. Salkin, North Cape May, NJ.	BPH–880728MN	
D. Cape Broadcasting Corp. North Cape May, NJ.	BPH–880728NM	
E. Cape Communications Corp. North Cape May, NJ.	BPH–880728MR (Dismissed herein)	
Issue Heading and Applicants 1. Air Hazard, A, B, D 2. Comparative, A, D 3. Ultimate, A, D		
IV.		
A. Grover H. Hubbell d/b/a HUB Communications, Canton, New York.	BPH–880809MZ	90–355
Applicant, city/state	File No.	MM docket No.
B. Frank D. Ward, Canton, New York.	BPH–880810MM	
C. Canton Broadcasting Associates, Canton, New York.	BPH–880810MN	
D. David T. and Ann D.G. Button, Canton, New York.	BPH–880810MP	
Issue Heading and Applicants 1. Air hazard A, B, D 2. Comparative, A, B, C, D 3. Ultimate, A, B, C, D		
V.		
A. Montbrook Broadcasting, Ltd., Millbrook, AL.	BPH–880825MF	90–353
B. Laura S. Greenstein, Millbrook, AL.	BPH–880825MI	
C. Champion Communications Ltd., Millbrook, AL.	BPH–880825MS	
D. WXVI Radio, Inc. Millbrook, AL.	BPH–880825MV	
E. Millbrook Superior Broadcasters Ltd., Millbrook, AL.	BPH–880825NA	
Issue Heading and Applicants 1. Air Hazard, A 2. Comparative, A, B, C, D, E 3. Ultimate, A, B, C, D, E		

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 Fed. Reg. 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services,

Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief Audio Services Division, Mass Media Bureau.

[FR Doc. 90–20263 Filed 8–27–90; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–868–DR]

Amendment to Notice of a Major Disaster Declaration; Iowa

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Iowa (FEMA–868–DR), dated May 26, 1990, and related determinations.

DATED: August 17, 1990.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

NOTICE: The notice of a major disaster for the State of Iowa, dated May 26, 1990, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 26, 1990:

Clinton County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

Associate Director, State and Local Programs and Support Federal Emergency Management Agency.

[FR Doc. 90–20226 Filed 8–27–90; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Georgia Ports Authority/Safbank Lines, Ltd. Terminal Agreement

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200403

Title: Georgia Ports Authority/Safbank Lines, Ltd. Terminal Agreement

Parties: Georgia Ports Authority (GPA) Safbank Line, Ltd. (Safbank)

Synopsis: The Agreement provides for GPA to perform container terminal services for Safbank at the following schedule of rates: (1) $38.00 per container for a consolidated rate which includes wharfage, stevedore use fee and slot lease; (2) $32.15 per container for receiving and delivery in stacks; (3) $31.68 per container for rail loading and unloading; (4) $4.63 per container for stack utilization fee; and (5) $0.55 per import container for import box computer fee. All other charges are to be assessed according to GPA's tariff. GPA agrees to furnish paved and marked container slots suitable for parking trailers and containers. The Agreement's term is for one year and may be renewed for two additional one-year terms. The Agreement provides for certain rate increases on October 1 thereafter while the Agreement is in effect.

By Order of the Federal Maritime Commission.

Dated: August 22, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 20150 Filed 8–27–90; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Brookside Associates, Inc., et al.; Change in Bank Control; Acquisition of Shares of Banks or Bank Holdings Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 U.S.C. 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the Offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than September 11, 1990.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Brookside Associates, Inc.*, New York, New York; First Carolina Investors, Inc., Charlotte, North Carolina; Foundation Lyric, Vaduz, Liechtenstein; Hofin Anstalt, Vanduz, Liechtenstein; Trust Alvant, Vaduz, Liechtenstein; Robert G. Wilmers, Buffalo, New York; and John G. Ogilvie, New York, New York; to acquire 15 percent of the voting shares of USBANCORP, Inc., Johnstown, Pennsylvania, and thereby indirectly acquire United States National Bank in Johnstown, Johnstown, Pennsylvania, and Three Rivers Bank and Trust Company, Pittsburgh, Pennsylvania.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Richard M. Rosenberg*, to acquire 97.15 percent of the voting shares of Bank of Commerce & Industry, Chicago, Illinois.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Jake Cole Howard*, Bedias, Texas; to acquire an additional 0.70 percent of the voting shares of First Anderson Bancshares, Inc., Anderson, Texas, for a total of 19.0 percent, and thereby indirectly acquire The First National Bank, Anderson, Texas.

Board of Governors of the Federal Reserve System, August 22, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–20182 Filed 8–27–90; 8:45 am]

BILLING CODE 6210–01–M

Community National Bancorporation of South Carolina, Inc., et al.; Formations of Acquisitions by and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 17, 1990.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Community National Bancorporation of South Carolina, Inc.*, Columbia, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Community National Bank of South Carolina, Columbia, South Carolina, a *de novo* bank.

2. *Rising Sun Bancorp*, Rising Sun, Maryland; to become a bank holding company by acquiring 100 percent of the voting shares of The National Bank of Rising Sun, Rising Sun, Maryland.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoening, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Lowry Facilities, Inc.* and Oklahoma Bancorporation, Inc., both of Clinton, Oklahoma; to acquire at least 93.51 percent of the voting shares of Custer County State Bank, Arapaho, Oklahoma.

Board of Governors of the Federal Reserve System, August 22, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-20183 Filed 8-27-90; 8:45 am]

BILLING CODE 6210-01-M

Crosby Bancshares, Inc.; Formations of, Acquisitions by, and Mergers, of Bank Holding Companies; Correction

This notice corrects a previous **Federal Register** Notice (FR Doc. 90-19358) published as page 33765 of the issue for Friday, August 17, 1990.

Under the Federal Reserve Bank of Kansas City, the entry for Crosby Bancshares, Inc., is amended to read as follows:

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Crosby Bancshares, Inc.*, Sheridan, Wyoming; to become a bank holding company by acquiring 100 percent of the voting shares of Lovell National Bank, Lovell, Wyoming.

Comments on this application must be received by September 5, 1990.

Board of Governors of the Federal Reserve System, August 22, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-20181 Filed 8-27-90; 8:45 am]

BILLING CODE 6210-01-M

Norwest Corp. Minneapolis, MN; Proposal To Engage in Title Insurance Agency Activities and Real Estate Settlement Activities

Norwest Corporation, Minneapolis, Minnesota ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("the BHC Act") and § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), for prior approval to acquire American Land Title Co., Inc., Omaha, Nebraska ("Agency"), and for Agency to engage in title insurance agency activities and real estate closings or settlements. Applicant proposes that these activities be conducted nationwide.

Applicant proposes to engage in its title insurance agency activities pursuant to section 4(c)(8)(G) ("exemption G") of the BHC Act and § 225.25(b)(8)(vii) of the Board's Regulation Y (12 CFR 225.25(b)(8)(vii). The Board has previously approved this activity for exemption G companies. *See*, First Wisconsin Corporation, 75 Federal Reserve Bulletin 31 (1989); *American Land Title Association* v. *Board of Governors of the Federal Reserve System*, 892 F.2d 1059 (DC Cir. 1989). In connection with its title insurance agency activities, Applicant will perform title abstracting through searches and examinations of titles to real estate.

Applicant also proposes to conduct real estate closing or settlements. In particular, these activities will include: reviewing the title commitment to determine the status of the title, verifying payoffs on existing loans secured by the real estate, reviewing the purchase agreement to identify any requirements contained in the agreement and ensuring their satisfaction, verifying the amount of and then calculating the pro rating of special assessments and taxes at closing, establishing a time and place for the closing, updating the title insurance commitment to the date of closing, preparing the checks, the deed, and affidavits required for the closing and authorization letters, conducting the closing and ensuring all parties properly execute the appropriate documents, collecting funds from the parties, preparing the HUD settlement statement, deed of trust, mortgage note, Truth-in-Lending statement, and the purchaser's affidavits, and recording all these documents as required under law.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with prior Board approval, engage directly or indirectly in any activities "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or management or controlling banks as to be a proper incident thereto."

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n* v. *Board of Governors*, 516 F.2d 1229, 1237 (DC Cir. 1975) ("*National Courier*"). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. "Board Statement Regarding Regulation Y," 49 **Federal Register** 806 (1984).

In determining whether an activity meets the second, or proper incident to banking, test of section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate of a holding company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices."

Applicant maintains that banks provide these real estate closing services as a normal element of their real estate lending activity. Also, many of the above activities are conducted in basic loan transactions performed by banks especially in the secured real

estate lending area. Accordingly, Applicant believes the proposed activities should be regarded as closely related to banking.

Applicant also maintains that the substantial overlap between the tasks of preparing a title insurance binder and performing a real estate settlement allow for increased efficiencies if conducted by the same company. Also, the customer will receive increased convenience through one-stop-shopping for these services. Accordingly, the proposed activities should be regarded as a proper incident to banking.

In publishing the proposal for comment, the Board does not take any position on issues raised by the proposal under the BHC Act. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standard of the BHC Act.

Any comments or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 10551, not later than September 28, 1990. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Minneapolis.

Board of Governors of the Federal Reserve System, August 22, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-20185 Filed 8-27-90; 8:45 am]

BILLING CODE 6210-01-M

Scott County Bancorp, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (U.S.C. 1843(c)(8)) and section 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their veiws in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not late than September 17, 1990.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Scott County Bancorp, Inc.*, Winchester, Illinois; to engage *de novo* in general insurance agency activities in Winchester, Illinois, a town having a population of less than 5,000 where Applicant's subsidiary bank has a lending office pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 22, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-20184 Filed 8-27-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Development of Clinical Guidelines

The Agency for Health Care Policy and Research announces that it is arranging for the development of clinical practice guidelines. A separate Notice announcing that public meetings are being held on the development of the guidelines is also published today elsewhere in this issue.

The Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239), enacted on December 19, 1989, added a new title IX to the Public Health Service Act (the Act) which established the Agency for Health Care Policy and Research (the Agency) to enhance the quality, appropriateness, and effectiveness of health care services, and access to such services. The mission of the Agency is to be carried out through the establishment of a broad base of scientific research and through the promotion of improvements in clinical practice and in the organization, financing and delivery of health care services.

Section 911 of the Act established within the Agency the Office of the Forum for Quality and Effectiveness in Health Care (the Forum). Section 912 of the Act directs the Forum to arrange for the development and periodic review and updating of:

Clinically relevant guidelines that may be used by physicians, educators and health care practitioners to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and managed clinically.

Section 912 of the Act also provides that by not later than January 1, 1991, the Administrator of the Agency shall assure the development of an initial set of guidelines, standards, performance measures, and review criteria that includes not less than 3 clinical treatments or conditions that:

1. Account for a significant portion of expenditures under the Medicare program, and have a significant variation in the frequency or the type of treatment provided; or

2. Otherwise meet the needs and priorities of the Medicare program.

The Act further directs that factors to be considered in establishing priorities for guidelines include the extent to which:

1. Improved methods of diagnosis and treatment can benefit a significant number of individuals;

2. There is significant variation among provider behaviors in the particular services and procedures utilized in making diagnoses and providing treatments, or significant variation in the outcomes of health care services or procedures;

3. The services and procedures utilized for diagnosis and treatment result in relatively substantial expenditures.

Based on the statutory directives, consultation with the Health Care Financing Administration, studies conducted by the Institute of Medicine, reliable research data available, and a high degree of professional consensus, the following topics have been selected for initial guideline development:

1. Visual Impairment due to Cataract in the Aging Eye.

2. Diagnosis and Treatment of Benign Prostatic Hyperplasia.

3. Urinary Incontinence in the Adult.

4. Prediction, Prevention and Early Treatment of Pressure Sores in Adults.

5. Delivery of Comprehensive Care in Sickle Cell Disease.

6. Pain Management.

7. Diagnosis and Treatment of Depressed Outpatients in Primary Care Settings.

To meet the requirement to assure the development of initial guidelines by January 1991, the Forum is arranging for 7 panels of experts in areas related to the above listed topics who will develop the specific guidelines. Panel responsibilities will include assessment of the available scientific evidence and clinical consensus and the determination of the scope of the guideline.

Written comments and information that would assist the panels in the development of guidelines for the above listed medical topics, including relevant scientific evidence and studies related to:

a. Prevention, diagnosis, and treatment,
b. Outcomes of importance to patients,
c. Geographic variations in practice,
d. Benefits or risks of alternative treatments,
e. Cost-effectiveness of alternative treatments, and
f. Needs of special populations

may be addressed to the appropriate panel:

c/o Office of the Forum for Quality and Effectiveness in Health Care, Agency for Health Care Policy and Research, room 18A46, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

To be considered as a part of the initial guideline development process, comments must be received no later than October 15, 1990.

Additional information on the guideline development process, including the selection of topics and panel members, is contained in the AHCPR Program Note on Clinical Guideline Development dated August 1990. Copies may be obtained by calling the Center for Research Dissemination and Liaison, Agency for Health Care Policy and Research, at (301) 443–2904.

For further information, interested individuals may contact Stephen King, M.D., Director, Office of the Forum for Quality and Effectiveness in Health Care, Agency for Health Care Policy and Research, at the above address.

Dated: August 6, 1990.

J. Jarrett Clinton,

Acting Administrator, Assistant Surgeon General.

[FR Doc. 90–20267 Filed 8–27–90; 8:45 am]

BILLING CODE 4160–90–M

Public Meetings on Clinical Practice Guidelines

Public meetings are being held on clinical practice guidelines under development by panels of experts, arranged for by the Agency for Health Care Policy and Research. A separate Notice announcing the development of the clinical practice guidelines and inviting written comments is also published today elsewhere in this issue.

The Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239), enacted on December 19, 1989, added a new title IX to the Public Health Service Act (the Act) which established the Agency for Health Care Policy and Research (the Agency) to enhance the quality, appropriateness, and effectiveness of health care services, and access to such services.

Section 911 of the Act established, within the Agency, the Office of the Forum for Quality and Effectiveness in Health Care (the Forum). Section 912 of the Act directs the Forum to arrange for the development and periodic review and updating of:

Clinically relevant guidelines that may be used by physicians, educators and health care practitioners to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and managed clinically.

Section 912 of the Act also provides that by not later than January 1, 1991, the Administrator of the Agency shall assure the development of an initial set of guidelines, standards, performance measures, and review criteria that includes not less than 3 clinical treatments or conditions that:

1. Account for a significant portion of expenditures under the Medicare program, and have a significant variation in the frequency or the type of treatment provided; or

2. Otherwise meet the needs and priorities of the Medicare program.

Section 914 of the Act lists factors to be considered in establishing priorities for guidelines, including the extent to which the proposed guidelines would:

1. Improve methods of prevention, diagnosis, treatment and clinical management and thereby benefit a significant number of individuals;

2. Reduce clinically significant variations among providers in making diagnoses and providing treatments, or reduce significant variations in the outcomes of health care services or procedures;

3. Reduce variations in the services and procedures utilized for diagnosis and treatment (and potentially produce savings in health care expenditures).

Based on these statutory criteria, consultation with the Health Care Financing Administration, studies conducted by the Institute of Medicine, the availability of reliable research data, and a high degree of professional consensus, the following topics have been selected for initial guideline development:

1. Visual Impairment Due to Cataract in the Aging Eye.

2. Diagnosis and Treatment of Benigan Prostatic Hyperplasia.

3. Urinary Incontinence in the Adult.

4. Prediction, Prevention and Early Treatment of Pressure Sores in Adults.

5. Delivery of Comprehensive Care in Sickle Cell Disease.

6. Pain Management.

7. Diagnosis and Treatment of Depressed Outpatients in the Primary Care Setting.

To meet the requirement to assure the development of initial guidelines by January 1991, the Forum is arranging for panels of experts in the above listed topics and consumers who will develop the specific guidelines. Panel responsibilities include assessment of the available scientific evidence and clinical consensus and determination of the scope of the guideline.

In addition the solicitation of relevant written material in the above-referenced **Federal Register** Notice published elsewhere in this issue, a series of public meetings is being arranged to provide an opportunity for interested parties to provide relevant information and

comments concerning the particular guidelines under development. The first two meetings will address the guidelines being developed for the Diagnosis and Treatment of Benign Prostatic Hyperplasia and those for the Diagnosis and Treatment of Depressed Outpatients in the Primary Care Setting. Both meetings will be held on October 3 as follows:

Oct. 3, 1990.	Texas Scottish Rites Hospital for Crippled Children, Hay T. Clark Auditorium, 2222 Welborn Street, Dallas, TX 75219.
9 AM–Noon.	Diagnosis and Treatment of Benign Prostatic Hyperplasia.
2–5 PM.....	Diagnosis and Treatment of Depressed Patients in the Primary Care Setting.

Representatives of organizations and other individuals are invied to provide relevant written comments and information and make a brief (5 minutes or less) oral statement. The Office of John M. Dyer, M.D., M.P.H., Assistant Surgeon General and Regional Health Administrator for Region VI for the U.S. Public Health Service, is making the administrative arrangements for these public meetings on behalf of the panels. Attendees must register with Dr. Dyer's office at the address set out below by September 17 and indicate whether they plan to make an oral statement. Those wishing to make oral statements and/or provide written comments and information should also submit copies of these to Dr. Dyer's office by September 17.

John M. Dyer, M.D., M.P.H., Assistant Surgeon General, Regional Health Administrator, U.S. Public Health Service, 1200 Main Tower, Room 1800, Dallas, TX 75202, Phone: 214–767–3879, Fax: 214–767–0404.

Meetings on the other topics will be held in the near future and will also be announced in the **Federal Register**.

Dated: August 20, 1990.

J. Jarret Clinton,

Acting Administrator, Assistant Surgeon General.

[FR Doc. 90–20288 Filed 8–27–90; 8:45 am]

BILLING CODE 4160–90–M

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget for Clearance

AGENCY: Health Care Financing Administration, HHS. The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96–511).

1. *Type of Request:* New; *Title of Information Collection:* Special Responsibilities of Medicare Hospitals in Emergency Cases; *Form Number:* HCFA–1541B and HCFA–1541D; *Use:* In order for hospitals to participate in Medicare they must meet certain conditions of participation. These forms are used to record compliance; *Frequency:* On occasion; *Respondents:* Individuals or households; State or local governments; Federal agencies or employees; and non-profit institutions, *Estimated Number of Responses:* 1,900; *Average Hours per Response:* .42; *Total Estimated Burden Hours:* 807.

2. *Type of Request:* New; *Title of Information Collection:* Current Beneficiary Survey: Pilot; *Form Number:* HCFA–P–15; *Use:* Collection of information is essential in making accurate annual and longitudinal estimates for cost, expenditures, and use for the National Health Accounts, monitoring and assessing legislative and proposed legislative changes, and effects of the existing Medicare program on beneficiaries; *Frequency:* Noninstitutional respondents, 3 times per year, and institutionalized respondents, 4 times per year; *Respondents:* Individuals/households and business/other for profit; *Estimated Number of Responses:* 630; *Average Hours per Response:* 1; *Total Estimated Burden Hours:* 630.

3. *Type of Request:* New; *Title of Information Collection:* Information Collection Requirements in BPD–458–F, Section 411.408(d)(2) and (f); *Form Number:* HCFA–R–131; *Use:* Physicians who do not accept assignment may bill a patient for services denied as not reasonable and necessary if he or she informed the patient, prior to furnishing the service, that Medicare was likely to deny payment for the services and the patient, after being so informed, agreed to pay for it; *Frequency:* On occasion; *Respondents:* Individuals/households; *Estimated Number of Responses:* 1,792,234; *Average Time per Response:* 7.5 minutes; *Total Estimated Burden Hours:* 224,029.

4. *Type of Request:* Revision; *Title of Information Collection:* Negative Case Action (NCA) Review Schedule/Action Summary Tables (Medicaid Eligibility Quality Control); *Form Number:* HCFA–6401; *Use:* HCFA uses the information to establish error rates by States and nation. The error rates are analyzed to detect trends and causes of high or low error rates. Results of NCA reviews are used by the States to plan corrective actions to assure accurate determinations and timely and adequate notice of denials; *Frequency:* Semi-annually; *Respondents:* State or local governments; *Estimated Number of Responses:* 8,600; *Average Hours per Response:* .755 (reporting) and 16.9 (recordkeeping); *Total Estimated Burden Hours:* 6,493 (reporting) and 860 (recordkeeping) for a total of 7,353.

5. *Type of Request:* New; *Title of Information Collection:* Patient Intake Data Form for the National Home Health Agency Prospective Payment Demonstration; *Form Number:* HCFA–442; *Use:* The proposed information collection will provide data about the health and functional status characteristics of Medicare home health patients served by home health agency demonstration providers, in order to monitor the operations of the demonstration and provide information for its evaluation about the project's effects on types of patients served; *Frequency:* Annually; *Respondents:* Individuals or households, businesses/other for profit, and non-profit institutions; *Estimated Number of Responses:* 46,550; *Average Hours per Response:* .10; *Total Estimated Burden Hours:* 4,655.

6. *Type of Request:* New; *Title of Information Collection:* Agency Characteristics Forms for the National Home Health Agency Prospective Payment Demonstration; *Form Numbers:* HCFA–443 and 444; *Use:* These forms will collect baseline information on approximately 400 home health agencies interested in participating in the Home Health Agency Prospective Payment Demonstration. An annual update will be completed by the 133 agencies actually selected for participation in the two phases of the demonstrations; *Frequency:* Annually; *Respondents:* Businesses/other for profit, non-profit institutions, and small businesses/organizations; *Estimated Number of Responses:* 111; *Average Hours per Response:* .65; *Estimated Burden Hours:* 72.

7. *Type of Request:* Extension; *Title of Information Collection:* Comprehensive Outpatient Rehabilitation Facility Eligibility and Survey Forms and Information Collection Requirements in 42 CFR 485.56, 485.58, 485.60, 485.64, 485.66, and 405.262; *Form Numbers:* HCFA–R–55, HCFA–359, and HCFA–360;

Use: In order to participate in the Medicare/Medicaid program as a Comprehensive Outpatient Rehabilitation Facility, providers must meet Federal conditions of participation. The certification form, HCFA–359, is used to determine if providers meet at least preliminary requirements. The survey form, HCFA–360, is used to record provider compliance with the individual conditions and report findings to HCFA; *Frequency:* Annually; *Respondents:* State or local governments and small business/organizations; *Estimated Number of Responses:* 162; *Average Hours per Response:* 3.25 (reporting) and 475 (recordkeeping); *Total Estimated Burden Hours:* 526 (reporting) and 77,014 (recordkeeping) for a total of 77,540.

8. *Type of Request:* Extension; *Title of Information Collection:* Psychiatric Hospital Medicare Survey Report Form; *Form Number:* HCFA–1537A; *Use:* This form is used by the State Agency to record data collected in order to determine compliance with individual conditions of participation and report it to HCFA; *Frequency:* On occasion; *Respondents:* State or local governments; *Estimated Number of Responses: 700; Average Hours per Response:* .5; *Total Estimated Burden Hours:* 350.

9. *Type of Request:* Revision: *Title of Information Collection:* Fire/Safety Survey Report Forms; *Form Numbers:* HCFA–2786 A–D, F–H, J–M, P, and Q; *Use:* These forms are used by State Agencies to record data collected in order to determine compliance with individual conditions of participation and report it to HCFA; *Frequency:* Annually; *Respondents:* State/local governments; *Estimated Number of Reponses:* 20,637; *Average Hours per Response:* 1; *Estimated Burden Hours:* 20,637.

10. *Type of Request:* Extension; *Title of Information Collection:* Request for Certification as a Rural Health Clinic and Rural Health Clinic Survey Report; *Form Number:* HCFA–29 and HCFA–30; *Use:* Suppliers use the Form HCFA–29 as an application to participate in the Medicare/Medicaid program. The State Agency uses the survey form, HCFA–30, to record data needed to determine compliance with Federal requirements; *Frequency:* Annually; *Respondents:* State or local governments and small businesses/organizations; *Estimated Number of Responses:* 148; *Average Hours per Response:* 1.75; *Total Estimated Burden Hours:* 259.

11. *Type of Request:* New; *Title of Information Collection:* Establishing Procedures for Transmitting Information Between Medicare Carriers and Medicare Supplemental Insurers; *Form Number:* HCFA–R–140; *Use:* These procedures provide for the transfer of claims information from a Medicare carrier to a Medicare supplemental (Medigap) insurer when a beneficiary has assigned his/her right of payment under the Medigap policy to a participating physician or supplier in order to speed payment of Medigap benefits to participating physicians and suppliers. Medigap insurers are required to issue, to beneficiaries, insurance enrollment cards and notification of claims payment determinations. They are also required to report to the Secretary a single mailing address to which claims notices may be sent. States are required to submit an annual report to the Secretary that includes information on Medigap policies within the State; *Frequency:* On occasion (claims information) and annually (Medigap insurers' address and State information on Medigap policies); *Respondents:* Individuals or households, State/local government, businesses/other for profit, and non-profit institutions; *Estimated Number of Responses:* Insurers: 170,000 (cards), 325 (reports), 86,400,000 (notices); States: 50; *Average Hours per Response:* 1 (cards), 1 (report), 3 minutes (notices) and 5–60 (State report); *Total Estimated Burden Hours:* 170,000 (cards), 325 (insurers' reports), 4,320,000 (notices) and 2,725 (State reports) for a total of 4,493,050.

12. *Type of Request:* Revision; *Title of Information Collection:* Medicare End Stage Renal Disease Facility Survey Report; *Form Numbers:* HCFA–3427 and 3427A; *Use:* These forms are used by State Agencies to record data collected in order to determine compliance with End Stage Renal Disease conditions of coverage and report it to HCFA; *Frequency:* Annually; *Respondents:* State/local governments; *Estimated Number of Responses:* 1,994; Average Hours per Response: 1; *Estimated Burden Hours:* 1994.

13. *Type of Request:* Reinstatement; *Title of Information Collection:* Medicare Questions on Other Insurance Available to Medicare Beneficiaries; *Form Numbers:* HCFA–9009 and HCFA–L365; *Use:* These forms are used to obtain information necessary for determining if a Medicare secondary payer situation applies to specific claims; *Frequency:* Other (first claim); *Respondents:* Individuals/households; *Estimated Number of Responses:* 2,100,000 *Average Hours per Response:* .25; *Estimated Burden Hours:* 525,000.

14. *Type of Request:* Reinstatement; *Title of Information Collection:* Medicare Third Party Premium Billing Request; *Form Numbers:* HCFA–2384; *Use:* These forms serve as an authorization of other interested persons to receive the Supplementary Medical Insurance premium notices for the purpose of making payment on behalf of Medicare beneficiaries who are unable to make the payments.; *Frequency:* On occasion; *Respondents:* Individuals/households; *Estimated Number of Responses:* 10,000; *Average Hours per Response:* .25; *Estimated Burden Hours:* 2,500. Additional Information or Comments: Call the Reports Clearance Officer on 301–966–2088 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent directly to the following address: OMB Reports Management Branch, Attention: Allison Herron, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: August 17, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 90–20157 Filed 8–27–90; 8:45 am]

BILLING CODE 4120–03–M

Food and Drug Administration

[Docket No. 90F–0257]

Ciba-Geigy, Corp.; Filing of Food Additive Petiton

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamic acid triester with 1,3,5-tris(2-hydroxyethyl)-*s*-triazine-2,4,6(1*H*,3*H*,5*H*)-trione as an anitoxidant for polyester elastomers in contact with dry food and rubber articles intended for repeated use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic

Act (section 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP OB4222), has been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532–2188, proposing that the food additive regulations be amended to provided for the safe use of 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamic acid triester with 1,3,5-tris(2-hydroxyethyl)-*s*-triazine-2,4,6(1*H*,3*H*,5*H*)-trione as an antioxidant for polyester elastomers in contact with dry food and rubber articles intended for repeated use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c)

Dated: August 20, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90–20269 Filed 8–27–90; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 90P–0231]

Sour Cream Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Bancroft Dairy, Inc., to market test a product designated as "light sour cream" that deviates from the U.S. standard of identity for sour cream (21 CFR 131.160). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than November 27, 1990.

FOR FURTHER INFORMATION CONTACT: Shellee A. Davis, Center for Food Safety and Applied Nutrition (HFF–414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0343.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Bancroft Dairy, Inc., 1010 South Park St., Madison, WI 53715.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for sour cream in 21 CFR 131.160 in that: (1) The fat content of the product is reduced from 18 percent to 8.5 percent, and (2) sufficient vitamin A palmitate is added in a suitable carrier to ensure that a 2-tablespoon serving of the product contains 4 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of the variation is to offer the consumer a product that is nutritionally equivalent to sour cream but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "light sour cream." The principal display panel of the label must include the statements "reduced calories" and "reduced fat" following the name. In addition, the label must bear the comparative statements "40% fewer calories" and "50% less fat."

The product complies with the reduced calorie labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is at least a 50-percent reduction in the fat content of the product. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

The permit provides for the temporary marketing of 1,686,000 1-pound cartons of the test product. The product will be manufactured at Bancroft Dairy, Inc., 1010 South Park St., Madison, WI 53715, and distributed in the States of Alabama, Alaska, Arizona, Colorado, Florida, Georgia, Kansas, Massachusetts, Michigan, Mississippi, Missouri, New Mexico, New York, Ohio, Pennsylvania, Tennessee, Texas, Utah, and Wisconsin.

Each of the ingredients used in the food must be stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than November 27, 1990.

Dated: August 20, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90–20271 Filed 8–27–90; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 90F–0252]

Michelman, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Michelman, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of ethylene-acrylic acid copolymer, partial sodium salt as a component of adhesives intended for use in food-contact applications.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP OB4218) has been filed by Michelman, Inc., 9089 Shell Rd., Cincinnati, OH 45236–1299, proposing that the food additive regulations be amended to provide for the safe use of ethylene-acrylic acid copolymer, partial sodium salt as a component of adhesives intended for use in food-contact applications.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: August 20, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90–20270 Filed 8–27–90; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-050-4410-08]

Availability of Proposed Amendments to Sun Valley Management Framework Plan and the Monument Resource Management Plan; Correction

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of correction of date.

SUMMARY: This notice corrects the date of October 1, 1990, previously published in the Federal Register August 6, 1990, [55 FR 31904] requesting public comments concerning the described plan amendment. Comments concerning this plan amendment must be received by October 9, 1990.

The remainder of the previously published Notice remains unchanged.

Dated: August 15, 1990.

K. Lynn Bennett,

District Manager.

[FR Doc. 90-20192 Filed 8-27-90; 8:45 am]

BILLING CODE 4320-GG-M

[ID-050-09-4320-14]

Meetings: Shoshone District Grazing Advisory Board; Idaho

AGENCY: Bureau of Land Management (BLM), Interior.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the Shoshone District Grazing Advisory Board.

DATES: Thursday, October 4, 1990, at 9 a.m.

ADDRESSES: BLM District Office, 400 West F Street, Shoshone, ID 83352.

FOR FURTHER INFORMATION CONTACT: K Lynn Bennett, District Manager, Shoshone District Office, P.O. Box 2-B, Shoshone, ID 83352. Telephone (208) 886-2206 or FTS 554-0110.

SUPPLEMENTARY INFORMATION: The proposed agenda for the meeting includes the following items: (1) Election of Chairman and Vice Chairman; (2) Review the proposed range improvement projects planned for the 1991 fiscal year; (3) Review and discuss the Thorn Creek Fire Rehabilitation Plan; (4) Review and discuss the Dry Creek, Picabo, and Lava Allotment Management Plans; (5) Discuss the Rangeland Program Summary progress reports for the Shoshone, Sun Valley, and Monument land use plans.

Operation and administration of the Board will be in accordance with the Federal Advisory Committee Act of 1972 (Pub. L. 92-463; 5 U.S.C. appendix 1) and Department of Interior regulations, including 43 CFR part 1984.

The meeting will be open to the public. Anyone may present an oral statement between 11 and 12 or may file a written statement regarding matters on the agenda. Oral statements will be limited to ten minutes. Anyone wishing to make an oral statement should notify the Shoshone District by Tuesday, October 2, 1990. Records of the meeting will be available in the Shoshone District Office for public inspection or copying within 30 days after the meeting.

Dennis D. Schulze,

Acting District Manager.

[FR Doc. 90-20191 Filed 8-27-90; 8:45 am]

BILLING CODE 4310-GG-M

[ES-970-00-4120-11-2410; VAES 40599]

Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Reinstatement of terminated oil and gas lease VAES 40599.

SUMMARY: Terminated oil and gas lease VAES 40599 located in Dickenson County, Virginia, Jefferson National Forest, Tract Nos. J-550f and J-550e containing 183.56 acres.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Tyler on (703) 461-1549.

SUPPLEMENTARY INFORMATION: Federal oil and gas lease VAES 40599 terminated automatically by operation of law on June 1, 1990 (30 U.S.C. 188). A petition for reinstatement of VAES 40599 was filed by Edwards and Harding Petroleum Company (lessee) under section 31D of the Mineral Leasing Act of 1920, as amended by the Federal Oil and Gas Royalty Management Act of 1982 (98 Stat. 2447).

The lessee has met all the following requirements for reinstatement:

(a) $500 ..... Reimbursement of Department Administrative Cost.
(b) $1,840 ..... Back Rental Payment.
(c) $130 ..... Publication Cost.

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $10.00 per acre per year, and royalty increased to 16⅔ percent beginning June 1, 1990 for VAES 40599.

G. Curtis Jones, Jr.,

State Director.

[FR Doc. 90-20190 Filed 8-27-90; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting will be held Saturday, September 22, 1990, at the Hancock Maintenance Ship, C&O Canal National Historical Park, Hancock, Maryland.

The Commission was established by Public Law 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mrs. Sheila Rabb Weidenfeld, Chairman, Washington, DC.
Mrs. Dorothy Tappe Grotos, Arlington, Virginia.
Mr. Samuel S.D. Marsh, Bethesda, Maryland.
Mr. James F. Scarpelli, Sr., Cumberland, Maryland.
Ms. Elise B. Heinz, Arlington, Virginia.
Professor Charles P. Poland, Jr., Chantilly, Virginia.
Captain Thomas F. Hahn, Sheperdstown, West Virginia.
Mr. Rockwood H. Foster, Washington, DC.
Mr. Barry A. Passett, Washington, DC.
Mrs. Jo Reynolds, Potomac, Maryland.
Ms. Nancy C. Long, Glen Echo, Maryland.
Mrs. Minny Pohlmann, Dickerson, Maryland.
Dr. James H. Gilford, Frederick, Maryland.
Mr. Edward K. Miller, Hagerstown, Maryland.
Mrs. Sue Ann Sullivan, Williamsport, Maryland.
Mr. Terry W. Hepburn, Hancock, Maryland.
Mr. Robert L. Ebert, Cumberland, Maryland.

Matters to be discussed at this meeting include:

1. Old and new business.
2. Superintendent's report.
3. Committee reports.
4. Public comments.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Thomas O. Hobbs, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Minutes of the meeting will be available for public inspection six (6) weeks after the meeting at Part Headquarters, Sharpsburg, Maryland.

Dated: August 22, 1990.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 90–20148 Filed 8–27–90; 8:45 am]

BILLING CODE 4310–70–M

Delaware Water Gap National Recreational Area

AGENCY: National Park Service; Delaware Water Gap National Recreation Area Citizens Advisory Commission.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the date of the next two meetings of the Delaware Water National Recreation Area Citizens Advisory Commission. Notice of these meetings is required under the Federal Advisory Committee Act.

Date: September 27, 1990
Time: 7 a.m.
Location: Merill Creek Reservoir Visitor Center, 116 G, Montana Road, Harmony Township, New Jersey
Date: November 3, 1990
Time: 9 p.m.
Location: Monroe County Court House, Commissioners Meeting Room, Ground Floor, Seventh & Monroe Streets, Stroudsburg, PA 18360

AGENDA: The agendas will be devoted to committee reports, Superintendent's report, old business, new business, correspondence, identification of topics of concern. An opportunity for public comment to the Commission will be provided. A public forum on the water quality plans for the Delaware River will be held at the November 3 meeting.

FOR FURTHER INFORMATION, CONTACT: Richard G. Ring, Superintendent; Delaware Water Gap National Recreation Area, Bushkill, PA 18324; 717–588–2435.

SUPPLEMENTARY INFORMATION: The Delaware Water Gap National Recreation Area Citizens Advisory Commission was established by Public Law 100–573 to advise the Secretary of the Interior and the United States Congress on matters pertaining to the management and operation of the Delaware Water Gap National Recreation Area, as well as on other matters affecting the Recreation Area and its surrounding communities.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to the Delaware Water Gap National Recreation Area Citizens Advisory Commission, P.O. Box 284, Bushkill, PA 18324. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Delaware Water Gap National Recreation Area located on River Road 1 mile east of U.S. Route 209, Bushkill, Pennsylvania.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 90–20264 Filed 8–27–90; 8:45 am]

BILLING CODE 4310–70–M

Farmington Wild and Scenic River Study; Massachusetts and Connecticut, Farmington River Study Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 1 s 10), that a meeting of the Farmington River Study Committee will be held Thursday, September 13, 1990.

The Committee was established pursuant to Public Law 99–590. The purpose of the Committee is to consult with the Secretary of the Interior and to advise the Secretary in conducting the study of the Farmington River segments.

The meeting will convene at 7:30 p.m. at the Riverton Volunteer Fire House, Riverton, Connecticut, for the following purposes:

1. Welcome, introductions and study overview.
2. Approval of minutes from June 14.
3. Discussion of budget status.
4. Report from Water Resources Subcommittee.
5. Report from River Conservation Planning and Public Involvement.
6. Opportunity for public comment.
7. Other business.

Interested persons may make oral/written presentations to the Committee or file written statements. Such requests should be made to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from the Public Affairs Officer, National Park Service, North Atlantic Region, 15 State Street, Boston Massachusetts 02109 (617) 223–5199.

Dated: August 21, 1990.

Gerald D. Patten,

Regional Director.

[FR Doc. 90–20149 Filed 8–27–90; 8:45 am]

BILLING CODE 4310–70–M

Martin Luther King, Jr. National Historic Site Advisory Commission; Meeting

AGENCY: National Park Service, Interior. Martin Luther King Jr., National Historic Site.

ACTION: Notice of Advisory Commission meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Martin Luther King, Jr., National Historic Site Advisory Commission will be held at 10:30 a.m. at the following location and date.

DATES: September 26, 1990.

ADDRESSES: The Martin Luther King, Jr., Center for Nonviolent Social Change, Inc., Freedom Hall Complex, room 261, 449 Auburn Avenue NE., Atlanta, Georgia 30312.

FOR FURTHER INFORMATION CONTACT: Mr. Randolph Scott, Superintendent, Martin Luther King, Jr., National Historic Site, 522 Auburn Avenue, NE., Atlanta, Georgia 30312.

SUPPLEMENTARY INFORMATION: The purpose of the Martin Luther King, Jr., National Historic Site Advisory Commission is to advise the Secretary of the Interior or his designee on matters of planning and administration of the Martin Luther King, Jr. National Historic Site and Preservation District. The members of the Advisory Commission are as follows:

Ms. Portia Scott, Chairperson
Mr. William W. Allison
Mr. John Cox
Ms. Barbara Faga
Mrs. Christine King Farris
Mrs. Valena Henderson
Mr. C. Randy Humphrey
Dr. Elizabeth A. Lyon
Rev. Joseph L. Roberts
Mrs. Coretta Scott King, Ex Officio
Member Director, National Park Service, Ex-Officio Member

The matters to be discussed at this meeting will include the status of park development and interpretive activiies.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: August 17, 1990.

C.W. Ogle,

Regional Director, Southeast Region.

[FR Doc. 90–20265 Filed 8–27–90; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 18, 1990. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by September 12, 1990.

Carol D. Shull,

Chief of Registration, National Register.

ARIZONA

Yavapai County

Sycamore Cliff Dwelling, Address Restricted, Sedona vicinity, 90001455

ARKANSAS

Franklin County

German-American Bank, Jct. of Franklin and Main Sts., Altus, 90001448

Fulton County

Morris, T.H., House, Jct. of 6th and Bethel Sts., Manmoth Springs, 90001462

Howard County

Nashville American Legion Building, AR 27 W of Main St., Nashville, 90001463

CALIFORNIA

Butte County

Oroville Inn, 2066 Bird St., Oroville, 90001431

Los Angeles County

Christmas Tree Lane, Santa Rosa Ave. between Woodbury Ave. and Altadena Dr., Altadena, 90001444

Frist National Bank of Long Beach, 101–125 Pine Ave., Long Beach, 90001432

Monterey County

Deetjen's Big Sur Inn, CA 1 N of Castro Cr., Big Sur vicinity 90001464

Napa County

Atkinson House, 8440 St. Helena Hwy., Rutherford, 90001443

Santa Clara County

Wheeler Hospital, 650 Fifth St., Gilroy, 90001442

COLORADO

Denver County

Crawford Hill Mansion, 969 Sherman St., Denver, 90001417

El Paso County

Burgess House, 730 N. Nevada Ave., Colorado Springs, 90001418

Montgomery Hall, Colorado College (Colorado College MPS) 1030 N. Cascade Ave., Colorado Springs, 90001419

Navajo Hogan, 2817 N. Nevada Ave., Colorado Springs, 90001420

Kit Carson County

Flagler Hospital, 311 Main Ave., P.O. Box 126, Flagler, 90001421

Morgan County

Farmers State Bank Building, 300 Main St., For Morgan, 90001422

CONNECTICUT

Fairfield County

Black Rock Gardens Historic District (Wartime Emergency Housing in Bridgeport MPS), Bounded by Fairfield St., Brewster St. and Nash Ln., including Rowsley and Haddon Sts., Bridgeport, 90001430

Gateway Village Historic District (Wartime Emergency Housing in Bridgeport MPS), Roughly bounded by Waterman St., Connecticut Ave. and Alanson Ave., Bridgeport, 90001429

Lakeview Village Historic District (Wartime Emergency Housing in Bridgeport MPS), Roughly bounded by Essex St., Boston Ave., Colony St., Plymouth St. and Asylum St., Bridgeport, 90001428

Park Apartments (Wartime Emergency Housing in Bridgeport MPS), 59 Rennell St., Bridgeport, 90001427

Remington City Historic District (Wartime Emergency Housing in Bridgeport MPS), Roughly, Bond, Dover, and Remington Sts. and Palisade Ave., between Stewart and Tudor Sts., Bridgeport, 90001426

Remington Village Historic District (Wartime Emergency Housing in Bridgeport MPS), Roughly, Willow and East Aves. between Boston and Barnum Aves., Bridgeport, 90001425

Seaside Village Historic District (Wartime Emergency Housing in Bridgeport MPS), E. side of Iranistan Ave. between South St. and Burnham St., Bridgeport 90001424

Wilmot Apartments Historic District (Wartime Emergency Housing in Bridgeport MPS), Jct. of Connecticut and Wilmot Aves., Bridgeport, 90001423

FLORIDA

Pinellas County

First Methodist Church of St. Petersburg, 212 Third St., N, St. Petersburg, 90001433

GEORGIA

Bibb County

Mechanics Engine House No. 4, 950 Third St., Macon, 90001434

Coweta County

Sims, George R., House, 1851 Collinsworth Rd., Palmetto vicinity, 90001435

IOWA

Howard County

Bohemian Savings Bank, Main St., Protivin, 88002806

KANSAS

Chase County

Pioneer Bluffs Ranch Historic District, KS 177 1 mi. N of Hatfield Green, Matfield Green vicinity, 90001441

NEW JERSEY

Atlantic County

Marven Gardens Historic District, Bounded by Ventnor, Fredericksburg, Winchester and Brunswick Aves., Margate, 9000141440

Burlington County

Allen, William R., School, Jct. of Mitchell Ave. and E. Federal St., Burlington, 90001450

Smith, Thomas, House, 1645 Hainesport—Mt. Laurel Rd., Mount Laurel, 90001437

Camden County

Collingswood Commercial Historic District, Roughly, Haddon Ave. between Woodlawn and Fern, including adjacent areas on Collings Ave., Collingswood, 90001439

Collingswood Residential Historic District, Roughly, Knight Park and its bordering properties, including Park Ave. E to Dayton Ave., Collingswood 90001436

Glover Fulling Mill Site, Address Restricted, Haddon Heights, 90001452

South Camden Historic District, Roughly bounded by Jackson St., S. Fourth St., Chelton Ave. and Railroad Ave., Camden, 90001453

Passaic County

Skylands, Ringwood State Park, Ringwood, 90001438

Salem County

Fries, Philip, House, Cohansey—Daretown Rd. N of Alloway—Friesburg Rd., Alloway Twnshp., Friesburg, 90001451

Warren County

Beattystown, Jct. of NJ 57 and Kings Hwy., Mansfield Twnshp., Beattystown, 90001449

NORTH CAROLINA

Hyde County

Ocracoke Historic District, SW tip of Ocracoke Island, around Silver Lake, Ocracoke, 90001465

VERMONT

Washington County

Currier Park Historic District, Properties bordering Currier Park on Park, North East and Academy Sts. and adjacent properties on Averill and Cliff Sts, Barre City, 90001454

WASHINGTON

King County

Issaquah Depot, Rainier Ave. N, Issaquah 90001461

WEST VIRGINIA

Pocahontas County

Camp Allegheny, Address Restricted, Bartow vicinity, 90001446

Randolph County

Cheat Summit Fort, Address Restricted, Huttonsville vicinity, 90001445

Middle Mountain Cabins, E side of Middle Mountain Rd. at Camp Five Run, Monongahela National Forest, Wymer vicinity, 90001447

WISCONSIN

Dane County

Madison Masonic Temple, 301 Wisconsin Ave., Madison, 90001456

Dodge County

Indian Point Site, Address Restricted, Fox Lake, 90001459

Iowa County

Brisbane, William Henry, House, Reimann Rd., 6 mi. S of US 14, Arena, 90001458

Portage County

Hotel Whiting, 1408 Strongs Ave., Stevens Point, 90001457

Rock County

City of Beloit Waterworks and Pump Station, 1005 Pleasant St., Beloit, 90001460

The following property was excluded from a previous pending list:

PENNSYLVANIA

Philadelphia Co.

Wanamaker, John, Store, Juniper and Market Sts., Philadelphia 78002459 (NHL) Additional Documentation 4/16/90

[FR Doc. 90-20266 Filed 8-27-90; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information reproduced below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the bureau clearance officer listed below and to the Office of Management and Budget, Paperwork Reduction Project (1029-0043), Washington, DC 20503, telephone 202-395-7340.

Title: Bond and Insurance Requirements for Surface Coal Mining Operations Under Regulatory Programs 30 CFR part 800.

OMB Approval Number: 1029-0043.

Abstract: Respondents identify information and data on bonds to cover the cost of reclamation performed under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This information allows regulatory authorities to determine if such bonds are sufficient to comply with the SMCRA.

Bureau form number: None.

Frequency: On occasion.

Description of respondents: Mine operators seeking permits or seeking release of bond amounts.

Estimated completion time: 28 hours.

Annual responses: 1,037 hours.

Annual burden hours: 28,846.

Bureau clearance officer: Andrew F. DeVito, 202-343-5150.

Dated: July 18, 1990.

John P. Mosesso,

Chief, Division of Technical Services.

[FR Doc. 90-20193 Filed 8-27-90; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub-No. 10)]

Intrastate Rail Rate Authority—Kansas

AGENCY: Interstate Commerce Commission.

ACTION: Notice of recertification.

SUMMARY: Pursuant to 49 U.S.C. 11501(b), the Commission recertifies the State of Kansas to regulate intrastate rail rates, classifications, rules, and practices for a 5-year period.

DATES: Recertification will be effective September 27, 1990, and will expire October 26, 1995.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245 (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD Services (202) 275-1721.)

Decided: August 20, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-20277 Filed 8-27-90; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 388; Sub-No. 29]

Intrastate Rail Rate Authority—South Carolina

AGENCY: Interstate Commerce Commission.

ACTION: Notice of recertification.

SUMMARY: Pursuant to 49 U.S.C. 11501(b), the Commission recertifies the State of South Carolina to regulate intrastate rail rates, classification, rules, and practices for a 5-year period.

DATES: Recertification will be effective September 27, 1990, and will expire October 26, 1995.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245, (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD Service (202) 275-1721.)

Decided: August 16, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-20278 Filed 8-27-90; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-331X]

Bi-State Development Agency of the Missouri-Illinois Metropolitan District—Discontinuance Exemption—in City and County of St. Louis, MO

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requriements of 49 U.S.C. 10903-10904 the discontinuance of operations by Bi-State Development Agency of the Missouri-Illinois Metropolitan District over 6.71 miles of rail line extending between milespost 3.23 (valuation station 155 + 51) in the City of St. Louis, MO, and milepost 9.94 (valaution station 509 + 39) in the County of St. Louis, MO, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on September 27, 1990. Formal expressions of intent to file an offer [1] of financial

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 U.C.C. 2d 164 (1987).

assistance under 49 CFR 1152.27(c)(2) must be filed by September 7, 1990, petitions to stay must be filed by September 7, 1990, and petitions for reconsideration must be filed by September 17, 1990.

ADDRESSES: Send pleadings referring to Docket No. AB–331X to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

and

(1) Petitioner's representative: Fritz R. Kahn, Suite 700, 901 Fifteenth Street NW., Washington, DC 2005–2301.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245.

(TDD for hearing impaired, (202) 275–1721)

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: Dynanic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD service, (202) 275–1721.)

Decided: August 16, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–20279 Filed 8–27–90; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Department of Justice policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States of America* versus *Joseph A. Boccanfuso* (D. Conn. No. B–87–298 (TFGD)), was lodged with the United States District Court for the District of Connecticut, on August 17, 1990.

The proposed consent decree concerns alleged violation of the Clean Water Act, 33 U.S.C. 1311, and the Rivers and Harbors Act, 33 U.S.C. 403, as a result of the placing of fill material and construction of seawalls below the high tide mark and the mean high water mark in the Saugatuck River in Westport, Connecticut. The consent decree requires Joseph A. Boccanfuso to pay $1,700.00 to the United States Treasury, and to apply for appropriate permits from the Army Corps of Engineers.

The United States Attorney's Office will receive written comments relating to the consent decree until September 27, 1990. Comments should be addressed to H. Gordon Hall, Esq., Assistant United States Attorney, District of Connecticut, 141 Church Street, P.O. Box 1824, New Haven, Connecticut 06508 and should refer to *United States of America* versus *Joseph A. Boccanfuso* (D. Conn. No. B–87–298 (TFGD)), File No. 8722026.

The complaint and consent decree in this case may be examined at the Clerk's office, United States District Court, 915 Lafayette Boulevard, Bridgeport, Connecticut 06604.

Stanley A. Twardy, Jr.,

United States Attorney, District of Connecticut.

[FR Doc. 90–20188 Filed 8–27–90; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

National Center for Manufacturing Sciences, Inc.; National Cooperative Research Notifications

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the National Center for Manufacturing Sciences, Inc. ("NCMS"), on July 31, 1990, filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership and describing the status of its research projects. The notification was filed for the purpose of maintaining the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

The following companies recently were accepted as memberse of NCMS:

Advanced Temperature Devices, Inc.,
GTE Valenite Corporation,
Midwest Brake Bond Company,
Trellis Software and Controls, Inc.

Also, the names of several members have changed. Manuflex Corporation was purchased by Lodge and Shipley, Inc., and portions of the Warner and Swasey Company were combined with Kearney and Trecker Corporation to form Kearney and Trecker Corporation (d/b/a KT-Swasey).

Currently, NCMS has awarded contracts directed toward its objectives in the general areas of manufacturing data and factory control; manufacturing operations; manufacturing processes and materials; production equipment design, analysis, testing, and control; and technology transfer. Other projects directed toward those objectives are under consideration.

On February 20, 1987, NCMS filed its original notification pursuant to section 6(a) of the Act, notice of which the Department of Justice published in the **Federal Register** pursuant to section 6(b) of the Act on March 17, 1987 (52 FR 8375). NCMS filed additional notifications on April 15, 1988, and May 5, 1988, notice of which the Department published in the **Federal Register** on June 2, 1988 (53 FR 20194). NCMS also filed additional notifications on July 11, 1988, September 13, 1988, December 8, 1988, March 9, 1989, August 10, 1989, November 3, 1989, January 29, 1990, and April 27, 1990, notices of which the Department published on August 19, 1988 (53 FR 31771), November 4, 1988 (53 FR 44680), Jaunuary 18, 1989 (54 FR 2006), April 13, 1989 (54 FR 14878), September 18, 1989 (54 FR 38461), November 29, 1989 (54 FR 49122), February 28, 1990 (55 FR 7045), and June 5, 1990 (55 FR 22964), respectively.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90–20187 Filed 8–27–90; 8:45 am]

BILLING CODE 4410–01–M

Omega Marine Services International, Inc. (Gulf of Mexico Large Scale Anchor Tests Joint Industry Project)

Notice is hereby given that, on or about July 30, 1990, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Omega Marine Services International, Inc. (Gulf of Mexico Large Scale Anchor Tests Joint Industry Project) ("JIP") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) The identities of its participants and (2) the nature and objectives of the JIP. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the participants to the JIP and its general purposes are given below:

The participants to the JIP are: Amoco Production Company; BP Exploration Inc.; Exxon Production Research Company; Mobil North Sea Ltd.; Petrobras America Inc.; Shell Oil Company; Texaco USA; Bruce International Ltd.; Vicinay International Chain Co., Inc.; Vryhof Ankers b.v.; and American Bureau of Shipping.

The main objective of the JIP is to test new anchor designs to provide mooring system designers and operators with

sufficient confidence to select and size anchors for a specific project without the need to conduct expensive anchor tests. A secondary objective is to permit classification societies to accept the anchor selection. For this reason, the American Bureau of Shipping will be attending the tests.

Memberships in this group research project remains open, and the parties intend to file additional written notification disclosing all changes in membership of this project.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90-20186 Filed 8-27-90; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-90-9-M]

Chevron Chemical Co., Petition for Modification of Application of Mandatory Safety Standard

Chevron Chemical Company, Manila Star Route, Vernal, Utah 84078 has filed a petition to modify the application of 30 CFR 56.14211 (blocking equipment in a raised position) to its Vernal Pit (I.D. No. 42-00998) and its Vernal Mill (I.D. No. 42-00164) located in Uintah County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a person not work on top of, under, or from mobile equipment in a raised position until the equipment has been blocked or mechanically secured to prevent it from rolling or falling accidently.

2. As an alternate method, petitioner requests a modification of the standard to allow suspension of a work platform (manbasket) by a cable from a crane in accordance with ASME/ANSI B30.5-1990.

3. In order to comply with the standard, scaffolding 50 to 70 feet high would have to be erected, resulting in an unsafe access to the desired work area. Climbing scaffolding to such heights would result in a diminution of safety for the workers.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 27, 1990. Copies of the petition are available for inspection at that address.

Dated: August 21, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-20229 Filed 8-27-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-126-C]

Enlow Fork Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Enlow Fork Mining Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Enlow Fork Mine (I.D. No. 36-07416) located in Greene and Washington Counties, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables, and transformers be kept at least 150 feet from pillar workings and not be located inby the last open crosscut.

2. As an alternate method, petitioner proposes to use high-voltage cables inby the last open crosscut and within 150 feet of pillar workings. The petitioner outlines specific equipment and procedures in the petition.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 27, 1990. Copies of the petition are available for inspection at that address.

Dated: August 21, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-20230 Filed 8-27-90; 8:45 am]

BILLING CODE 4510-30-M

[Docket No. M-90-125-C]

Kerr-McGee Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Kerr-McGee Coal Corporation, P.O. Box 727, Harrisburg, Illinois 62946 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Galatia Mine (I.D. No. 11-02752) located in Saline County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Due to geological conditions, placing electrical installations against stopping lines where they could be vented directly to the return is not possible.

3. As an alternate method, petitioner proposes to house permanent electrical installations in fireproof structures equipped with automatic fire suppression devices; and the fireproof structure shall be equipped with a sensor that would sound at an attended surface location when CO is detected.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 27, 1990. Copies of the petition are available for inspection at that address.

Dated: August 21, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-20231 Filed 8-27-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-127-C]

The Pittsburg and Midway Coal Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

The Pittsburg and Midway Coal Mining Company, P.O. Box 100, Raton, New Mexico 87740 has filed a petition to modify the application of 30 CFR 75.300-4 (inspection, examinations, and records) to its Cimarron Mine (I.D. No. 29-00224) located in Colfax County, New Mexico. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all main fans be inspected daily, by a person trained and designated by the operator, to ensure electrical and mechanical reliability. The fan pressure recording gages should be examined daily and the charts should be changed after completing one revolution.

2. Due to bad weather and/or road conditions, daily visual inspections of main fans cannot be made on certain days of the year.

3. As an alternate method, petitioner proposes that—

(a) If over 24 hours has elapsed since the last fan inspection the fireboss would determine if the fan is operating properly by contacting the Conspec Monitoring System Operator to obtain the air velocity reading before entering the mine;

(b) If the Conspec Monitoring System is not operating, the fireboss would enter the main return entry, approximately 100 feet, and obtain a reading with a vane anemometer. The fireboss would also check the oxygen level to ensure that it does not fall below 19.5 percent;

(c) If the daily visual inspection of the main fan cannot be made, the reasons would be recorded in the fan inspection book;

(d) If over 24 hours has elapsed since the last daily fan inspection, the fireboss would record the method used to determine the fan was operating properly in the preshift report; and

(e) The daily visual inspection of the fan would be made as soon as the road is safe to travel. The reason for the recording chart not being charged would be recorded.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 27, 1990. Copies of the petition are available for inspection at that address.

Dated: August 21, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-20232 Filed 8-27-90; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 90-53; Exemption Application No. D-8115 et al.]

Grant of Individual Exemptions; Liberty Savings Association Profit Sharing Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition to notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Liberty Savings Association Profit Sharing Plan (the Plan) Located In Houston, Texas

[Prohibited Transaction Exemption 90-53; Exemption Application No. D-8115]

Exemption

The restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale by the Plan to Liberty Savings Assocation, a party in interest with respect to the Plan, of ten mortgage notes (the Notes) for a sales price payable in a cash lump sum on the date of the sale, provided that the sales price is not less than the higher of the aggregate fair market value of the Notes on the date of the sale or the Plan's unrecovered cost on that date of acquiring the Notes.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of propsed exemption published on July 5, 1990, at 55 FR 27716.

Written Comments: The Department has received one written comment on the proposed exemption and no requests for a hearing. The comment was submitted by the applicant to advise that one of the Notes was foreclosed

upon by the Plan in April 1990 due to the failure of the borrower under said Note, R-Port, Inc. (R-Port), to make any payments after February 1989. R-Port was dissolved in December 1988, and the Plan was able to locate only one of its former principals, Mr. Addison Terry. Mr. Terry expressed no interest in the real property securing this Note and maintained that he had no liability for said Note. The Plan intends to sell this real property in an auction. The remaining ten Notes will be sold on the basis described in the notice of proposed exemption; each Note is valued separately.

The Department has considered this information and has determined that the exemption should be granted as clarified by the comment.

For further information contact: Mrs. Miriam Freund of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Teamsters Local No. 20 Insurance, Health and Welfare Plan and Trust (the Plan) Located in Toledo, OH

[Prohibited Transaction Exemption 90–54; Exemption Application No. D–8153]

Exemption

The restrictions of section 406(a) of the Act shall not apply to (1): The assignment of a lease relating to certain improved real property (the Dental Care Center) by the Plan to Donald R. Curtis, D.D.S., Inc. (Curtis), a party in interest with respect to the Plan; and (2) the cash sale by the Plan to Curtis, of all of the equipment, furniture, furnishings, fixtures, inventory and leasehold improvements that have been placed in the Dental Care Center, provided the terms of the transactions are at least as favorable to the Plan as those obtainable in arm's length transactions with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 7, 1990 at 55 FR 18973.

Written comments: The Department received one written comment to the notice of proposed exemption from a retired participant in the Plan. Although the written comment did not address the subject transactions, it related to whether the transactions would result in the payment of higher costs by Plan participants for dental care. After conferring with a representative of the Department, the commentator decided to withdraw his comment.

Accordingly, after consideration of the entire record, including the written comment submitted, the Department has determined to grant the exemption as it has been proposed.

For further information contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Dyncorp Pension Trust (the Trust) Located in Reston, Virginia

[Prohibited Transaction Exemption 90–55; Exemption Application No. D–8214]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale by the Trust of an interest in the Venture America Fund II Limited Partnership to Dyncorp, a party in interest with respect to the Trust; provided that the sale price is the greater of $250,000 or the fair market value of the interest on the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 5, 1990 at 55 FR 27719.

For further information contact: Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Richardson Electronics, Ltd. and Subsidiaries Employees Stock Ownership Plan and Trust Agreement (the Plan) Located in La Fox, Illinois

[Prohibited Transaction Exemption 90–56; Exemption Application No. D–8223]

Exemption

The restrictions of section 406(b)(2) of the Act shall not apply to the exchange of stock of Richardson Electronics, Ltd. and cash between the individual accounts of participants in the Plan, provided the amount of cash received by an account for such exchange is the fair market value of the stock transferred on the date of the exchange.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 25, 1990 at 55 FR 25912.

For further information contact: Gary Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Alexandria-Madison Employees Profit Sharing Plan (the Plan) Located in Alexandria, Virginia

[Prohibited Transaction Exemption 90–57; Exemption Application No. D–8306]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale by the Plan of two parcels of unimproved real property (the Properties) to Stanley J. Asrael, a party in interest with respect to the Plan, provided that the sale price is not less than the the greater of either the fair market value of the Properties, as currently appraised (i.e. $650,000 and $345,000), or the fair market value of the Properties on the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 25, 1990 at 55 FR 25913.

For further information contact: Mr. E.F. Williams of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Graphic Communications International Union (GCIU) Graphic Communications International Mortuary Fund, and International Printing and Graphic Communications Union Burial Fund (the Funds) Located in Washington DC

[Prohibited Transaction Exemption 90–58; Exemption Application Nos. D–8187, D–8188, D–8189]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the Loan of $5 million by the Funds to the GCIU, a party in interest with respect to the Funds, provided that: (a) The amount of the Loan represents less than 25% of the Funds assets; (b) the Loan will be secured by a promissory note and a first lien on the real property located at 1900 L Street, NW., Washington, DC which the GCIU owns; (c) the collateral was appraised by a qualified independent appraiser; and (d) the independent fiduciary, Riggs National Bank of Maryland has evaluated the terms of the Loan and has represented them to be as favorable to the Funds as those obtainable in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the notice of proposed exemption published on April 6, 1990 at 55 FR 12966.

Effective Date: June 29, 1990.

Written Comments: The Department received one written comment with respect to the proposed exemption. The commenter requested that the proposed exemption be denied because the commenter asserted that building which the GCIU is offering as collateral for the Loan is encumbered, and he questioned the GCIU's ability to repay the Loan. The commenter also stated that he did not believe that the proposed transaction would be in the best interest of the participants and beneficiaries because the rate of return of the Loan is less than what the Funds' had been earning.

The Secretary-Treasury of the GCIU and the Funds' independent fiduciary, Riggs National Bank of Maryland (Riggs Bank) both responded to the comments. The Secretary-Treasurer and Riggs Bank individually stated that the GCIU owns the building without liens or encumbrances.

The GCIU represented that the proceeds of this Loan will be used to pay off another commercial loan. The elimination of this expense will reduce the GCIU's annual accounts payable by $400,000. In addition, the GCIU's member per capita tax was raised on November 1, 1989. This raise is projected to increase the GCIU's annual revenue by approximately $40,000 per month. Thus, the Union is projected to have more than sufficient income to repay the loan.

As independent fiduciary, Riggs Bank has reviewed the GCIU's representations and has determined that the Loan is a good investment for and in the interest of the Funds. The interest rate of the Loan will be the prevailing rate of return at the time of the closing of the transaction rather than the 9¼% as proposed. This rate of return is 9⅝%. Secondly, Riggs Bank stated that the actuarial assumption for the investment return for the Fund is 8.5%. The Funds' investment return is structured to meet the anticipated disbursement requirements. It has been represented by the GCIU's Secretary that the Funds' investment mix of 70% fixed income and 30% equity generates dividend and interest income that exceeds the actuarial assumption. The interest rate of the Loan will exceed the actuarial assumption by more than 1%.

The Department has considered the entire record, including the comment submitted and the response to the comment submitted by the GCIU and Riggs Bank, and has determined to grant the exemption.

For further information contact: Allison Padams of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory of administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to the administrative or statutory exemption is not dispositve of whether the transaction is in fact a prohibited transaction;

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is subject to the exemption.

Signed at Washington, DC, this 22nd day of August, 1990.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 90–20145 Filed 8–27–90; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–8204 et al.]

Proposed Exemptions; Waste Management, Inc., et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state the reasons for the writer's interest in pending exemption.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5671, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitition Avenue, NW., Washington, DC 20210.

Notice of Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reogranization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these

notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Waste Management, Inc. and Chemical Waste Management, Inc. Pension Plan (the Plan) Located in Oak Brook, IL

[Application No. D–8204]

Proposed exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed: (1) Purchase by the Plan of certain improved real property (the Property), for $5.8 million, from Chemical Waste Management, Inc. (CWM), a party in interest with respect to the Plan; (2) the leasing of the Property by the Plan to CWM under the provisions of a written lease (the Lease); (3) the possible future purchase of the Property by CWM pursuant to a right of first refusal (the Right of First Refusal) or a call option (the Call Option) provision contained in the Lease; (4) the possible sharing by the Plan and CWM in the appreciation of the Property as a result of CWM's construction of improvements on the Property; and (5) the guarantee by Waste Management, Inc. (WMI), CWM's parent and the Plan's sponsor, of the Plan's cost basis in the Property upon a sale, assignment or disportation of the Property to CWM, its assigns or to an unrelated party; provided the terms of the transactions are at least as favorable to the Plan as those obtainable in arm's length transactions with unrelated parties.

Summary of facts and representations

1. WMI is a leading international provider of comprehensive waste management services. WMI provides solid waste mangement services to commercial, industrial, municipal and residential customers. WMI also provides recycling services, street sweeping services, portable lavatories, mobile office services and lawn care and pest control services through its various affiliates. WMI is incorporated in the State of Delaware. The firm maintains its principal place of business at 3003 Butterfield Road, Oak Brook, Illinois.

2. CWM, a Delaware corporation and a 78 percent-owned subsidiary of WMI, is the largest company engaged in the hazardous waste management industry in the United States. CWM provides chemical waste transportation, treatment, resource recovery and disposal services to industrial, governmental and commercial customers. Through its Environmental Remedial Action Division, CWM furnishes integrated site remediation services, primarily to industrial customers. CWM also provides low level radioactive waste management services, mostly to electric utilities. CWM maintains its principal offices at 3001 Butterfield Road, Oak Brook, Illinois.

3. Balcor Institutional Realty Advisors, Inc. (BIRA) of Skokie, Illinois has been designated as the independent ficuciary for the Plan with respect to the proposed transactions that are described herein. A division of Shearson Lehman Hutton, Inc., BIRA was founded in 1973. The firm is an investment adviser registered with the U.S. Securities and Exchange Commission under the Investment Advisers Act of 1940. BIRA employs over 2,300 professionals nationwide and has over $6 billion in real estate assets under management. Officers and/or affiliates of BIRA have invested approximately $1.8 billion in commercial real estate investments on behalf of retirement plans throughout the United States. BIRA and/or its affiliates perform market analyses, financial analyses, underwriting activities in commercial real estate, asset management, construction management and investment research. BIRA repesents that it is not related in any way to WMI or CWM.

4. The Plan is a defined benefit plan which is sponsored by WMI for all non-union employees of WMI and its participating subsidiaries. As of December 31, 1988, the Plan had net assets available for benefits of $72,011,871. As of August 1989, the Plan had approximately 19,274 participants. The Trustees of the Plan (the Trustees) and the decisionmakers with respect to the Plan's investments are: Messrs. Thomas R. Frank, Peter H. Huizenga, Jerome D. Girsch, James E. Koenig, Robert A. Paul, Bruce C. Tobecksen and David Coleman. The Trustees also serve as officers and directors of WMI.

5. Among CWM's assets is a parcel of improved real property located at 2000 South Batavia Road, Geneva, Illinois. The Property, which is commonly referred to as the "Belden Property", consists of a single tract of land containing 18.76 acres. The land has been improved with a Class 1 office building, a laboratory research center and a parking facility. Also comprising the Property are an unimproved lawn area and approximately 5.5 acres of undeveloped excess land. The Property presently serves as CWM's Midwestern regional headquarters.

CWM purchased the Property on December 1, 1988 from Cooper Industries, Inc., an unrelated party, for a cash payment of $4.6 million. The Property has never been encumbered by a mortgage or similar encumbrance since its acquisition by CWM. Also, the Property is not contiguous to other real property by WMI, CWM or their affiliates.

6. The Property was appraised for purposes of the proposed sale and lease transactions that are described below by Messrs. James J. Schroeder, M.A.I., Robert S. O'Connor, Appraiser and Ms. Holly F. Bushnell, Appraiser (the Appraisers), independent appraisers who are affiliated with the real estate appraisal firm of William A. McCann and Associates, Inc. of Chicago, Illinois. In an appraisal report dated September 18, 1989, the Appraisers placed the fair market value of the Property at $5,325,000 as of June 22, 1989.

The original appraisal report did not take into consideration the value of approximately $1.3 million in capital improvements that had been constructed on the Property by CWM. These improvements were in the nature of renovation work to the office building comprising the Property and the acquisition by CWM of furniture for the building. Because it was believed that some of the improvements could have increased the fair market value of the Property, the Appraisers updated their earlier appraisal report.[1] In an appraisal report dated April 13, 1990, the Appraisers determined that the Property had a fair market value of $5.8 million as of March 31, 1990 in its most recently enhanced or "as is" state. The Appraisers also determined that the Property would have have a fair market value of $6.9 million as of December 31, 1991 once all improvements (both planned and underway) were completed by CWM.

[1] Ms. Bushnell did not participate in the preparation of the updated appraisal report of the Property.

7. To provide the Plan with an investment opportunity which the Trustees believe is in the best interests of the Plan, the Trustees propose that the Plan, CWM and WMI enter into the following transactions. First, CWM will sell the Property to the Plan. Second, CWM will lease the Property from the Plan under the terms and conditions of a long-term lease. Third, CWM will be given certain rights to purchase the Property. Fourth, CWM will possibly share with the Plan in the appreciation of the Property as the result of CWM's construction of improvements on the Property. Fifth, WMI will guarantee to the Plan its cost basis in the Property in the even of a sale, assignment or disposition of such property to CWM or an unrelated party. Therefore, the Trustees request an administrative exemption from the Department.

8. As evidence of its proposed purchase of the Property, the Plan and CWM will enter into a Real Estate Purchase and Sale Agreement (he Purchase and Sale Agreement) which provides that the acquisition price for the Property will be $5.8 million. The consideration will be paid by the Plan in cash at the time of closing. In pertinent part, the Purchase and Sale Agreement conditions the Plan's obligations to purchase the Property on: (a) The Department's approval of the requested administrative exemption; (b) the execution by the Plan and CWM of the Lease described herein; (c) the receipt by BIRA of an updated appraisal of the Property in which the independent appraiser (selected by BIRA) has determined that the fair market value of the Property is equal to or in excess of the purchase price and the fair market rental value of the Property is equal to or less than the basic rent; (d) the issuance of a statement from BIRA that the proposed transactions reflect fair market value terms; and (e) notice from BIRA that the conclusions expressed in the statement remain accurate and that the consummation of the purchase transaction remains in the best interests of the Plan as of the closing date. The Purchase and Sale Agreement also states that WMI will pay all closing costs that are associated with the Plan's purchase of the Property, including the title insurance premium, title search or abstract fees related thereto, State of Illinois and other real estate excise taxes, the cost of conveyance tax stamps, Property survey costs and other closing costs.

9. Contemporaneously with its acquisition of the Property, the Plan will commence leasing it to the Employer under the terms and conditions of a written lease. The Lease provides that CWM will initially pay a rental for the entire parcel of $145,000 quarterly or $580,000 annually. The rental amount is consistent with the 10 percent capitalization rate determined by the Appraisers as reflecting the fair market rental value of the Property in their updated appraisal report. The Lease provides for increases in the rental rate every three years in accordance with Consumer Price Index (the CPI) and fair market value adjustments to the rental at six year intervals. Thereafter, the cycle will repeat itself with a CPI adjustment after nine years, a fair market value adjustment after twelve years and a continuing three year cycle alternative between the CPI and the fair market value adjustments. Appropriate adjustments to the rent based upon CPI increases will be made by BIRA. In the case of fair market value adjustments to the rent, BIRA will select the independent appraiser who will revalue the Property and take into consideration the value of any subsequent improvements that have been constructed on the Property by CWM.

The Lease will be a triple net lease. As such, all costs that are associated with the operation of the Property including maintenance and repairs, utilities, insurance and all real estate taxes will be payable by CWM as lessee. In addition, CWM will be obligated to make all lease payments notwithstanding any damage or destruction of property and it will indemnify the Plan for any loss, liability, or cost of defense involved in actions arising out of the Plan's ownership of the Property during the term of the Lease.

The Lease expires thirty years from the date of its execution. Although CWM may elect to renew the Lease for up to ten additional five year terms, BIRA must approve all extensions of the Lease, select the independent appraiser who will revalue the Property (and any subsequent improvements) and make appropriate CPI and fair market adjustments to the rent. Each extended term of the Lease will be based upon the same terms and conditions as those provided under the original Lease. In no event, however, will there be rental decrease from one adjustment period to the next.

10. CWM will also be obligated under the Lease to make further capital improvements to the Property. These improvements may be in the nature of lessor improvements (the Lessor Improvements) which are permanent improvements that are specifically intended to preserve or enhance the value of the Property and which must be approved by BIRA as part of a detailed improvements plan, or lessee improvements (the Lessee Improvements) which are special-purpose improvements that are tailored to CWM's specific needs and which BIRA has insisted be removed by CWM at such time that CWM's leasehold ends.[2] The applicants represent that Lessor Improvements are the economic responsibility of the Plan, but which are paid for by CWM, while Lessee Improvements are the financial responsibility of CWM. BIRA will determine whether an improvement is a Lessor Improvement or a Lessee Improvement and the Plan and CWM will be bound by such determinations. In each such instance, BIRA must approve the construction of an improvement before it can be made. In this regard, BIRA will consider whether an improvement will diminish the value of the Property and to the extent it does, it will not approve the making of such improvement.

11. With respect to the Lessor Improvements, CWM will not be compensated immediately for making such improvements. Rather, CWM will be compensated upon a sale of the Property by the Plan to an unrelated party. Such compensation will be based upon a formula approved by BIRA which BIRA believes will fairly represent the additional fair market value of the Property that is attributable to the value of the Lessor Improvements. This payment will be expressed as a percentage participation in the net sale proceeds, with such percentage being determined by the ratio of the appraised fair market value of the Lessor Improvements to the appraised value of the Property on an "as completed basis". This delayed payment will be subordinated to the Plan's priority return of no less than an 11.5 percent annual cumulative return on its investment in the Property. Amounts realized by the Plan that are above this level will be allocated by BIRA in accordance with the ratio between the Plan and CWM.[3]

[2] For purposes of this proposed exemption, the applicants state that an example of a Lessor Improvement would be the lobby stairway elevator in the laboratory research center comprising part of the Property. The applicants also explain that an example of a Lessee Improvement would be an X-Trax Power Transformer which must be removed by CWM at the end of its tenancy without damage to the premises.

[3] The applicants represent that Illinois law follows the common law doctine that a lessee is entitled to remove lessee improvements made during the lease if it was the intent of the parties

Continued

12. The Lease also provides that if the Plan receives a bona fide offer during the initial term of such Lease from an unrelated party to purchase the Property or any part thereof, CWM has a right of first refusal whereby it may elect to purchase the Property (and subsequent improvements) for cash by matching the third party offer. The Right of First Refusal will only arise if BIRA seeks another purchaser, and only if: (a) BIRA believes the unique needs of another buyer will result in an offer which is greater than the fair market value of the Property as determined by an independent appraiser selected by BIRA and (b) BIRA has determined that such divestment would be in the best interests of the Plan.[4] Because it is intended that the Right of First Refusal will be treated as a third party sale, CWM will also be compensated by the Plan for its allocable interest in the Lessor Improvements it has made to the Property in the manner described above. The Plan will not be required to pay any real estate fees or commissions in connection with CWM's exercise of the Right of First Refusal.

13. The Lease further provides that CWM may elect, with BIRA's prior approval, to purchase the Property for cash for its fair market value as determined by an independent appraiser selected by BIRA. However, BIRA must first make a determination that such transaction would be in the best interests of the Plan.[5] The Call Option may be exercised by CWM during the seventh year of the initial term of the Lease. By written notice to BIRA delivered by CWM within 60 days after the determination of the fair market value of the Property, CWM must notify BIRA about whether it wishes to purchase the Property. If the Call Option is exercised, CWM will not be entitled to receive any payments for the Lessor Improvements it has made to the Property. In a sale pursuant to the Call Option, the Plan will not be required to pay any real estate fees or commissions.

14. To protect the Plan from the loss of its investment in the Property, WMI will guarantee that in the event of any sale, assignment or disposition of the Property to CWM, its assigns or an unrelated party, the Plan will be paid by WMI an amount equal to the excess of the amount paid by the Plan for the Property over the amount received by the Plan upon such sale, assignment or other disposition. BIRA will enforce the guarantee. As of June 30, 1989, WMI had total assets that were in excess of $5.5 billion.

15. As stated above, BIRA will serve as the independent fiduciary for the Plan with respect to the proposed transactions. In this capacity, BIRA will advise the Plan, and otherwise monitor the acquisition, retention, leasing and disposition of the Property and it will take all actions that are necessary and proper to enforce the rights of the Plan and protect the participants and beneficiaries of the Plan. As evidence of its decision to undertake the duties required of an independent fiduciary, BIRA has entered into an Investment Advisory Agreement with the Plan. BIRA represents that it has consulted with counsel experienced with the Act regarding the duties, responsibilities and liabilities imposed by the Act on plan fiduciaries. BIRA also represents that it understands and acknowledges its duties, responsbilities and liabilities in serving as a fiduciary on behalf of the Plan.

BIRA states that it has examined the exemption application, the Purchase and Sale Agreement, both appraisal reports for the Property, the proposed Lease, various documents and financial information related to the Plan, operating budgets and other financial information associated with the Property and copies of other documents supplied to it by the Trustees. BIRA also represents that it has conducted property, market and financial analyses to measure the comparability of the proposed transactions to similar transactions with unrelated parties and performed an analysis of the Plan's overall investment portfolio. BIRA explains that its review has been focused on the determination of whether the proposed transactions are at least as favorable to the Plan as the terms of similar transactions with unrelated parties.

With respect to the property issues analyzed, BIRA has inspected the buildings comprising the Property, evaluated the improvements that have been made to the Property since its acquisition by CWM, analyzed plans and specifications for additional improvements to the Property, reconciled the costs of the improvements in contributing to the fair market value of the Property and concluded that the Appraisers' valuations of the Property are correct and reflect appropriate valuation methods. BIRA has also assessed alternative uses of the Property assuming a future sale should occur. BIRA notes that the Property is situated in an area experiencing substantial growth and development and that visibility and access to the Property are good and create enhanced value potential. In addition, BIRA represents that the Office building portion of the Property would be attractive to a single lessee-user, or if there are multiple lessees, to one lessee per floor. As for the laboratory research center, BIRA believes this building would be suitable to a single lessee.

The market analysis conducted by BIRA has been directed to an examination of both the local single and multi-lessee office/industrial markets and the single-lessee corporate lease market. Here, BIRA has considered the proposed sale and leaseback transactions in light of the subject market for both multi and single-lessee leases in order to determine whether the rental established by the Appraisers for the proposed Lease has been based upon the fair market rental value of the Property. BIRA believes that the Appraisers' method of calculating rent under the Lease is appropriate for long-term corporate leases in that imputed rent represents a blended rate for both the office building and the laboratory research center. Thus, BIRA concludes that the rental rate of $6.52 per square foot of rentable space, as determined by the Appraisers, is consistent with market rents and reflects the fair markt rental value of the Property.

In addition, BIRA has thought it appropriate to extend its market analysis of the proposed transactions to such factors as the type of space, the credit rating of the lessee and the lease term. In this regard, BIRA has compared

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that improvements not be permanently affixed to the realty. Factors to be considered in determining this intent include the operative language of the lease, the nature of the improvements, the nature of the building and whether removal of the improvements will cause material damage to the property. Under some circumstances, the applicants state that the lessee may be allowed a reasonable time after the lease term in which to remove improvements the lessee has made to the property. Thus, the applicants note that certain of CWM's improvements will be subject to removal upon the termination of the Lease while others will not. The applicants state that this distinction is confirmed by section 8.1 of the Lease which provides that "all non-severable Alterations (e.g., a fixture that is attached to the property in a fashion that removal of it would damage the property or disrupt the lessor's or a successor lessee's enjoyment of the property) other than the Lessee's Equipment, tenant improvements and interior decorative items, shall constitute a part of the Leased Property."

[4] If BIRA receives an unsolicited offer from an unrelated party to purchase the Property, the applicants state that CWM may still match the offer and purchase the Property for cash.

[5] According to the applicants, BIRA cannot approve CWM's exercise of the Call Option if it believes the price is below the price which would be paid by an unrelated party. If another purchaser offered such a bid, the applicants explain that CWM would proceed in the same manner as it would under the Right of First Refusal circumstances described above.

the proposed Lease with other corporate long-term leases in terms of such criteria as: (a) The credit rating of the lessee by an independent rating agency as an assurance of lessee stability; (b) rental computation based upon either a percentage of construction costs of the sales price of the property; (c) the presence of a rental escalation clause; (d) an expense structure in which the lessee under an absolute net lease would be responsbile for all property expenses including capital improvements and expenditures; (e) options to renew the lease based upon a negotiated or predetermined rental rate and an escalation structure similar to the base lease; (f) purchase options which include both a right of first refusal and a call option provisions; and (g) a participation feature in which the lessor and lessee have a shared interest in the property. After a thorough comparative analysis, BIRA has concluded that the subject Lease contains all of the elements that are deemed critical to corporate lease transactions. Therefore, BIRA has determined that the Lease will be appropriate and in the best interest of the Plan.

BIRA represents that is has performed a financial analysis of the proposed transactions under various scenarios. BIRA has concluded that the annual Lease rental of $580,000, which results in a 10 percent capitalization rate, is reflective of the fair market rental value of the Property based upon its findings with respect to similar transactions in the market.

In performing its financial analysis of the proposed transactions, BIRA has also assessed the extent to which the Plan's investment in the Property will comply with the investment objectives of the Plan. In this connection, BIRA has compared the Property to other investments of the Plan and then compared the returns on these assets to the expected returns on the Property. BIRA indicates that it has performed this analysis to evaluate the potential diversification value added by the investment in terms of risk and return and it has concluded that the subject Property will fall within the Plan's targeted investment guideline for real estate. Further, BIRA has concluded that the Plan's investment portfolio alone, or with addition of the Property, will satisfy the Plan's investment objectives of achieving an overall nominal annual return of 12 percent as well as producing a long-term 3 percent real rate of return. Thus, BIRA has determined that the Plan's investment in the Property will provide the Plan with stability and it will allow the Plan to diversify its investments and reduce the volatility or risks associated with the total returns earned by the portfolio.

Finally, BIRA notes that WMI's guarantee of the Plan's cost basis in the Property will provide the Plan with a protection against the loss of its principal investment that is not typically found in comparable sale/leaseback transactions. Based on comparative market data it has analyzed, BIRA states that it is most common for the buyer/lessor to bear the risk of loss to the extent that general market conditions into which the buyer/lessor may sell a property have substantially deteriorated since the time it acquired the property.

16. In summary, it is represented that the proposed transactions will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) The interests of the Plan with respect to the purchase of the Property, the execution and monitoring of the Lease, the possible future sale of the Property or the construction of Lessor Improvements pursuant to options given in the Lease, and the enforcement of WMI's guarantee regarding the Plan's cost basis in the Property, will be represented by BIRA, the independent fiduciary; (b) the Plan will pay CWM cash for the Property in an amount which does not exceed the Property's fair market value as determined by an independent appraiser selected by BIRA and which does not include the payment of any real estate fees or commissions by the Plan; (c) the value of the Property represents less than 10 percent of the Plan's assets; (d) any sale of the Property pursuant to the Right of First Refusal or the Call Option may take place only after BIRA has determined that it would be in the best interests of the Plan for such divestment; (e) the sale provisions under the Right of First Refusal and the Call Option ensure that the Plan will receive cash in an amount of not less than the fair market value of the Property as determined by a qualified independent appraiser selected by BIRA and they further provide that no real estate fees or commissions will be paid by the Plan; and (f) WMI will guarantee the Plan's cost basis in the Property upon a sale, assignment or disposition of the Property to CWM, its assigns or to an unrelated party.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fudiciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the Plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 22nd day of August, 1990.

Ivan Strasfeld,

Director of Exemption Determinations Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 90-20146 Filed 8-27-90; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Hearing; Vermont

ACTION: Notice of hearing.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) notice is hereby given of a public hearing on "Overcoming Employment Barriers Experienced by Individuals with Disabilities", to be held in the Memorial Lounge of the Waterman Building, University of Vermont, Burlington, Vermont.

DATE: Monday, September 10, 1990; 9 a.m.—11:30 a.m.

Status: The hearing is to be open to the public.

Matters to be discussed: The purpose of this public hearing is to enable the Commission members to examine the challenges to public policy and publicly supported training and educational institutions resulting from the increasing numbers of individuals with disabilities who will be entering the labor force during the 1990's. Federal, state and local elected officials have been invited to attend. Other persons invited to testify are representatives of education, training programs, employers, and program participants.

Interested parties may submit written testimony either prior to or after the official hearing date, but no later than October 7, 1990 to the Commission headquarters, attn: Kathi Ladner. This will be the second of two in a series of hearings that wil be conducted in September.

FOR FURTHER INFORMATION CONTACT: Barbara C. McQuown, Director, National Commission for Employment Policy, 1522 K Street NW., Suite 300, Washington, DC 20005 (202) 724–1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy was established pursuant to Title IV–F of the Job Training Partnership Act (Pub. L. 97–300). The Act charges the Commission with the broad responsibility of advising the President, and the Congress on national employment issues. Handicapped individuals wishing to attend should contact the Commission so that appropriate accommodations can be made. Minutes of the hearing will be available for public inspection at the Commission's headquarters, 1522 K Street NW., Suite 300, Washington, DC 20005.

Signed at Washington, DC, this 23d day of August, 1990.

Barbara C. McQuown,

Director, National Commission for Employment Policy.

[FR Doc. 90–20283 Filed 8–27–90; 8:45 am]

BILLING CODE 4510–23–M

Hearing; Rhode Island

ACTION: Notice of hearing.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) notice is hereby given of a public hearing on "Overcoming Employment Barriers Experienced by Individuals with Disabilities", to be held in Courtroom 314, at 316 Federal Building, Providence, Rhode Island.

DATES: Friday, September 7, 1990; 9 a.m.–11:30 a.m.

Status: The hearing is to be open to the public.

Matters to be discussed: The purpose of this public hearing is to enable the Commission members to examine the challenges to public policy and publicly supported training and educational institutions resulting from the increased numbers of individuals with disabilities who will be entering the labor force during the 1990's. Federal and state elected officials have been invited to attend. Other persons invited to testify represent State and local government agencies that administer JTPA-funded and other training programs, as well as employers and educators.

Interested parties may submit written testimony either prior to or after the official hearing date, but no later than October 5, 1990 to the Commission headquarters, attn: Kathi Ladner. This will be one of two in a series of hearings that will be conducted in September.

FOR FURTHER INFORMATION CONTACT: Barbara C. McQuown, Director, National Commission for Employment Policy, 1522 K Street, NW., Suite 300, Washington, DC 20005 (202) 724–1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy was established pursuant to Title IV–F of the Job Training Partnership Act (Pub. L. 97–300). The Act charges the Commission with the broad responsibility of advising the President, and the Congress on national employment issues. Handicapped individuals wishing to attend should contact the Commission so that appropriate accommodations can be made. Minutes of the hearing will be available for public inspection at the Commission's headquarters, 1522 K Street NW., Suite 300, Washington, DC 2005.

Signed at Washington, DC, this 23d day of August, 1990.

Barbara C. McQuown,

Director, National Commission for Employment Policy.

[FR Doc. 90–20284 Filed 8–27–90; 8:45 am]

BILLING CODE 4510–23–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–348 and 50–364; License Nos. NPF–2 and NPF–8 EA 88–40]

Alabama Power Co.; Joseph M. Farley Nuclear Plant Units 1 and 2; Order Imposing Civil Monetary Penalty

I

Alabama Power Company, Birmingham, Alabama (APCo or licensee) is the holder of Operating License Nos. NPF–2 and NPF–8 (licenses) issued by the Nuclear Regulatory Commission (Commission or NRC) on June 25, 1977 and March 31, 1981, respectively. The licenses authorize the licensee to operate the Joseph M. Farley Nuclear Plant Units 1 and 2 located near Dothan, Alabama in accordance with the conditions specified therein.

II

NRC inspections of the licensee's activities under the licenses were conducted on September 14–18, 1987, November 2–6, and November 16–20, 1987. The results of these inspections indicated that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the licensee by letter dated August 15, 1988. The Notice reflected application of the "Modified Enforcement Policy Relating to 10 CFR 50.49, 'Environmental Qualification of Electrical Equipment Important to Safety for Nuclear Power Plants' " (Modified Policy) enclosed with Generic Letter 88–07 (April 7, 1988). The Notice stated the nature of the violations, the provision of the NRC's requirements that the licensee had violated, and the amount of the civil penalty proposed for the violations. The licensee responded to the Notice by letter dated November 14, 1988. In its response, the licensee denied all but two of the violations and contended that the Notice of Violation and Proposed Imposition of Civil Penalty should be

dismissed or that the proposed civil penalty should be fully mitigated.

III

After consideration of the licensee's response and the statements of fact, explanations, and argument for full mitigation contained therein, the Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations, and Research has determined that, as set forth in appendix A to this Order, the violations occurred as stated, the Modified Policy was properly applied, the violations were properly classified as a Category A problem under the Modified Policy, and the escalation and mitigation factors of the Modified Policy were properly applied to the base civil penalty. Accordingly, a civil penalty of $450,000 should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2282 (Act), and 10 CFR 2.205, *it is hereby ordered that:*

The licensee pay a civil penalty in the amount of Four Hundred Fifty Thousand Dollars ($450,000) within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

V

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing shall be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with copies to the Assistant General Counsel for Hearings and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Regional Administrator, Region II, 101 Marietta Street, NW., Atlanta, Georgia 30323; and to the NRC Resident Inspector, Joseph M. Farley Nuclear Plant.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the U.S. Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in section II above, and

(b) Whether, on the basis of such violations, this Order should be sustained.

Dated at Rockville, Maryland, this 21st day of August 1990.

For the Nuclear Regulatory Commission.

James H. Sniezek,

Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations, and Research.

Appendix A

On August, 15 1988, the NRC staff issued a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) to Alabama Power Company (APCo or licensee) for failure to qualify electrical equipment important to safety as required by 10 CFR 50.49. The Notice identified three violations with eight examples, identified as I.A.1, I.A.2, I.B.1, I.B.2, I.C.1, I.C.2, 1.C.3, and I.C.4, which were judged to be significant and warranting escalated enforcement under the "Modified Enforcement Policy Relating to 10 CFR 50.49, Environmental Qualification (EQ) of Electrical Equipment Important to Safety for Nuclear Power Plants" (Modified Policy) enclosed with Generic Letter (GL) 88–07 (April 7, 1988). One additional violation was classified in the Severity Level IV category (Violation II), for which no civil penalty was proposed.

APCo responded to the Notice in a letter dated November 14, 1988. In this reply and answer to the Notice, APCo denied all the violations except for two items of Violation I.C.1. In addition, APCo argued that (1) The Modified Policy legally deficient; (2) the Notice fails to apply the Modified Policy properly; (3) enforcement is not warranted because the "clearly should have known" test set forth in the Modified Policy was not met; (4) the NRC staff incorrectly classified the violations as significant; and, (5) the Notice does not appropriately apply the mitigation and escalation factors. Thus, APCo sought either withdrawal of the Notice or full mitigation of the civil penalty. The NRC staff's evaluations and conclusions regarding the licensee's response, including a restatement of each violation and a summary of the licensee's positions on each issue follow.

Part I—Discussion of General matters Related to the Modified Policy

Attachment 1, Section II.A and Attachment 2, Section III: The Modified Policy Is Legally Deficient

Attachment 2, Section III.A: The Modified Policy Fails to Consider the Safety Significance of any EQ violations

Attachment 2, Section III.B: The Modified Policy was not Properly Promulgated

Attachment 2, Section V.F: The Staff's Assessment of the EQ Violation Category was Flawed

The licensee contended that the Modified Policy is contrary to Commission policy and practice and fails to consider sufficiently the safety significance of any alleged EQ deficiency. The licensee has therefore taken the position that "the Modified Enforcement Policy is legally flawed and any action pursuant to it should be set aside."

The licensee argued that (1) The NRC staff must consider actual safety significance to set the severity level of a violation and to assess civil penalties, and in failing to do so, improperly categorized these violations; (2) the NRC staff errs in declining to consider additional information regarding the qualification of equipment obtained or developed after an inspection; (3) the NRC staff was required to use notice and comment rulemaking procedures to adopt the Modified Policy; and (4) the effects of the Modified Policy are retroactive, and not prospective.

NRC Staff's Evaluation of Licensee's Response in Attachment 1, Section II.A and Attachment 2, Section III, Section III.A, Section III.B, and Section V.F

The licensee argued that the NRC staff must consider actual safety significance item-by-item to set the severity level of a violation and to assess civil penalties. However, the Commission in promulgating 10 CFR 50.49 determined that a licensee's failure to demonstrate the environmental qualification of electrical equipment important to safety was a significant safety matter. In the area of environmental qualification, a licensee's inability to present documented knowledge of whether equipment important to safety is capable of operating in a harsh environment indicates that the licensee cannot predict whether such equipment will operate in the event of an accident in which it is called upon to perform its intended safety function. Accordingly, a licensee who lacks such knowledge

cannot assure protection of the public health and safety in the event of an accident resulting in a harsh environment.

The environmental qualification regulations require licensees to qualify each item of electrical equipment important to safety. The regulations further require each licensee to list each item of electrical equipment important to safety on a master list. All such listed items, by definition, perform important safety functions. Thus, safety significance is inherent with respect to each item on the list or each item that should be on the list. In this case, all the electrical equipment for which the NRC staff found violations was important to safety as defined in 10 CFR 50.49(b).

As explained in the Modified Policy, the Commission has aggregated individual violations of 10 CFR 50.49 to determine the extensiveness of qualification problem represented by those individual violations in order to assess a civil penalty. The Commission developed Categories A, B, and C based on the extensiveness of the violations, which reflect the overall pervasiveness and general safety significance of the significant EQ violations. In instances where a licensee committed isolated individual violations, the licensee could not assure the operation during an accident of a limited number of systems affected by the isolated individual violations. Because a small number of safety systems or components could fail during an accident as a result, such violations are classified as Category C. If the violations affected a moderate number of systems, the violations would be more significant than those in Category C because the licensee could not ensure that a correspondingly greater number of systems would operate in the event of an accident. Accordingly, the likelihood that an accident could endanger public health and safety would be increased and such violations are classified as Category B. An extensive problem would be most significant because the licensee's lack of knowledge of equipment qualification would extend to many systems and the licensee would be unable to assure that these systems would perform their intended functions in an accident resulting in a harsh environment. Therefore, such violations are classified as Category A. In summary, while this method does not consider the specific effects of the postulated failure of each unqualified item of electrical important to safety, it does provide an appropriate measure of the safety significance of environmental qualification violations.

In this case, the licensee properly classified many components as important to safety as required by 10 CFR 50.49 but, as specifically described below, failed to have adequate documentation to support qualification of some of those components. Additionally, as described below, the licensee failed to classify other electrical components as important to safety and therefore did not demonstrate whether these components would function as required. Because the licensee failed to qualify many electrical components important to safety, which affected many systems, the licensee could not assure that these components and systems would function if called upon to do so, thus committed a significant safety violation, which the NRC staff properly classified as Category A.

As an example of the NRC staff's alleged failure to consider actual safety significance, the licensee argued that the violation is not safety significant if the unqualifed component would have been qualified had the licensee performed the appropriate analysis or collected the appropriate data before the deadline given in 10 CFR 50.49. The NRC staff rejects this argument. As stated above, the licensee's failure to provide assurance prior to the deadline that the electrical equipment important to safety was qualified is a safety significant violation. The NRC staff requires licensees to have detailed knowledge of the quality of installed electrical equipment important to safety in the plant to ensure that licensees have a technically sound basis for making assessments of plant safety. While the licensee's action to qualify equipment after the discovery of the violations is important corrective action, which the NRC staff considers in deciding whether to take further enforcement action, including assessing further civil penalties, the licensee's performance of new analysis or collection of new data that yield fortuitously positive results does not affect the licensees's prior lack of knowledge. Neither the licensee nor the NRC staff could have known in advance whether the new analysis or data would indicate that such equipment would function when called upon to do so during an accident resulting in a harsh environment. The regulations required a licensee to know whether electrical equipment important to safety would function as intended during and following a design basis event before operating its nuclear reactor after November 30, 1985. In this case, the licensee's failure to qualify electrical equipment important to safety, and its consequent lack of knowlege concerning that equipment resulted in the licensee's inability to assure that such equipment would function in the event of an accident, which is a significant safety violation.

The licensee also argued that the NRC staff erred in declining to consider additional information regarding the qualification of equipment obtained or developed after an inspection. As stated above, the NRC staff rejects this argument because 10 CFR 50.49 requires that the licensee have advance knowledge that its equipment is qualified. Favorable information developed after identification of a violation does not reduce the significance of the preexisting lack of knowledge concerning equipment qualification. The only exceptions to this rule include cases in which a documentation deficiency is essentially one of a minor nature which is readily correctable based on knowledge, tests, or analyses that existed prior to the qualification deadline and was then readily available to the licensee. The NRC staff would consider such violations as Severity Level IV or V. Accordingly, the licensee was incorrect in asserting that the NRC staff erred by failing to consider additional test data or analyses, whether already existing or developed after identification of the violations.

In this case, the licensee failed to have sufficient documentation, including adequate analyses, in qualification files prior to November 30, 1985, to support the environmental qualification of equipment important to safety affecting many systems and components. Moreover, the licensee could not have corrected the deficient files prior to the deadline because it did not have information, tests, or analyses available in any location that would demonstrate qualification. This is discussed in detail in other sections of the Appendix.

The licensee argued that the NRC staff was required to use rulemaking notice and comment procedures to adopt the Modified Policy. The Modified Policy is not a rule or regulation and, therefore, the Administrative Procedure Act (APA) rulemaking requirements, including the notice and comment provisions, do not apply. The Commission's "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR part 2, appendix C (General Enforcement Policy), provides general guidance on how the Commission intends to achieve the purposes set forth in it, namely, to promote and protect the health and safety of the public from radiological hazards. The General Enforcement

Policy itself states, "this is a policy statement and not a regulation. The Commission may deviate from this statement of policy and procedure as is appropriate under the circumstances of a particular case." The Commission has consistently taken this position since the proposed interim General Enforcement Policy was first published in October 1980. The General Enforcement Policy clearly allows such deviations, and the Commission need not promulgate a rule to do so. The Modified Policy sets forth how the Commission has deviated from the General Enforcement Policy in the context of environmental qualification violations existing after the November 30, 1985 deadline. Accordingly, neither the APA nor any other statute required the Commission to promulgate the Modified Policy or any other policy statement by using rulemaking notice and comment procedures.

The licensee argued further that the effects of the Modified Policy are retroactive, and not prospective. With respect to this argument, the licensee contended it did not have prior notice of how the NRC was going to exercise its enforcement discretion in environmental qualification cases. However, on August 6, 1985, the NRC's Director of Licensing sent Generic Letter (GL) 85–15 to all licensees of operating reactors informing then of how the Commission intended to exercise its enforcement discretion, in accordance with the General Enforcement Policy, in response to violations of 10 CFR 50.49. Thus, on August 6, 1985, well before the 10 CFR 50.49 deadline of November 30, 1985, the Commission informed licensees that violations of environmental qualification requirements would be dealt with differently from most other violations. Furthermore, GL 85–15 stated that the NRC staff would impose daily civil penalties for any unqualified item of electrical equipment and that such an item is unqualified if there is not adequate documentation to establish that it will perform its intended safety functions in the relevant environment. GL 85–15 prospectively gave notice that the Commission would treat every individual violation of 10 CFR 50.49 as safety significant. Additionally, insofar as application of the Modified Policy would lower the amount of civil penalties proposed for violations of 10 CFR 50.49 occurring prior to November 30, 1985, which is the general case, a licensee cannot claim that the Modified Policy prejudices it.

Attachment 1, Section II.B, and Attachment 2, Section IV: The Notice Fails to Apply the Modified Policy Properly

The licensee contended that the Notice issued by the NRC staff is deficient in the application of the Modified Policy in that: (1) The Notice fails to articulate clearly and concisely a sufficient factual basis for its conclusion that the licensee clearly should have known of the alleged violations; (2) such basis cannot be developed; (3) if consideration of APCo actions were to be based on the state of knowledge that existed in the industry in November 1985, the proposed violations would be unsupported; (4) the Notice fails to consider technical positions previously accepted by the NRC staff and now modifies those positions without performing the requisite backfit analysis; and (5) the Notice fails to consider the licensee's legitimate exercise of engineering judgment.

NRC Staff's Evaluation of Licensee's Reponse in Attachment 1, Section II.B, and Attachment 2, Section IV

The NRC staff disagrees with the licensee's contentions and concludes that the Notice provided to the licensee was consistent with the Modified Policy. In summary, and as further discussed in later sections, the NRC staff described the basis for its conclusion that the licensee clearly should have known of the EQ deficiencies in the cover letter transmitting the Notice to the licensee. In addition, the NRC staff considered the industry's state of knowledge and the NRC staff's past technical positions prior to November 1985, and maintains the conclusion that the licensee clearly should have known of the EQ deficiencies. Further, the NRC staff considered the licensee's use of undocumented engineering judgment, but also considered the requirements of 10 CFR 50.49 which specify that a record of qualification be maintained in an auditable form. Undocumented engineering judgment is not auditable. As described in detail in the following sections, the NRC staff believes that it has applied the Modified Policy properly and that the violations have been properly categorized.

Attachment 2, Section IV.A: The Notice of Violation Fails to Establish, In Accordance with Section II of the Modified Policy, That Alabama Power Company "Clearly Should Have Known" of the Alleged Violations

The licensee contended that the Commission directed the NRC staff to take enforcement action under the Modified Policy only if a licensee clearly should have known that it was not in compliance with 10 CFR 50.49 by November 30, 1985, and that the Notice failed to establish that the licensee clearly should have known of the alleged violations. In addition, the licensee contended that the NRC staff was to balance the four factors described in GL 86–15 and GL 88–07 for each violation to determine if the "clearly should have known" standard was met. The licensee argued that the Notice failed to include a specific analysis of the four factors and the factors relied upon to conclude that the "clearly should have known" criterion had been met. The licensee concluded, therefore, that the NRC staff's action is contrary to law and violates the spirit of the General Enforcement Policy.

The licensee further contended that the NRC staff must recognize the evolving nature of EQ knowledge and that knowledge developed after the deadline should not serve as a basis for enforcement action.

NRC Staff's Evaluation of Licensee's Response in Attachment 2, Section IV.A

The NRC staff, in the context of applying the Modified Policy, agrees that the licensee should be provided with sufficient information regarding the staff's finding that it clearly should have known of the unqualified equipment to provide the licensee with an opportunity to contest that finding. The NRC staff agrees that, in general, a licensee's knowledge of the requirement alone might be insufficient to satisfy this test, as would the mere recitation that a licensee "clearly should have known" of a problem. Several steps have been taken so as to provide the licensee with the appropriate information. First, the Modified Policy was made available to the licensee, which describes how the test may be satisfied. Second, the NRC inspection report, which was sent to the licensee before the enforcement conference, and upon which the enforcement action is based, documents the NRC staff's findings that formed the basis for the "clearly should have known" conclusion. Third, an enforcement conference was held prior to issuance of the Notice at which each finding was discussed in detail. Finally, the NRC staff articulated in the cover letter which transmitted the Notice the reasons why it believes the licensee clearly should have known of the EQ deficiencies. In the cover letter the NRC staff has highlighted the significant facts supporting the staff's conclusion. The NRC staff disagrees that the cover letter's explanation of the staff's basis

for the conclusion must be exhaustive and include discussion of all facts and factors considered. The NRC staff's approach is consistent with the approach taken under the General Enforcement Policy whenever the NRC staff makes certain judgments in determining the severity level of a violation, applying the escalation or mitigation factors to a base civil penalty amount, or determining the degree of willfulness surrounding a violation.

In those cases, the NRC staff provides the licensee with notice and a meaningful opportunity the respond. The opportunities for the licensee to more fully explore the NRC staff's basis include a reply to the inspection report, discussions during the enforcement conference, a formal reply to the Notice, and a formal reply to the Order imposing the civil penalty requesting a hearing.

The NRC staff rejects the licensee's position that the NRC staff has to balance the factors in deciding whether the licensee clearly should have known of the lack of proper environmentel qualification before the deadline. The Modified Policy states that the NRC staff will examine the circumstances in each case to determine whether the licensee clearly should have known that its equipment was not qualified. The factors set forth in the Modified Policy simply include the types of information the NRC staff will consider in examining the circumstances of each case. If one factor demonstrates that the licensee clearly should have had the required knowledge, the absence of facts under the other factors to demonstrate that knowledge does not negate the NRC staff's finding. The NRC staff does consider all available information and circumstances in making its finding, including extenuating factors that would prevent a licensee from knowing that it had unqualified equipment where otherwise the licensee clearly should have known of the deficiencies before the deadline. However, the Modified Policy does not instruct the NRC staff to balance factors that do not demonstrate that the licensee clearly should have known of unqualified equipment against those that do, nor is there any reason to do so. Accordingly, the NRC staff does not balance the factors listed in the Modified Policy to decide if the licensee clearly should have known that it had not qualified electrical equipment, important to safety, but examines the totality of the circumstances for facts that demonstrate that the licensee clearly should have had the knowledge. A specific discussion of the NRC staff's bases for concluding that the licensee clearly should have known of each violation is provided herein.

The licensee further contented that the NRC staff must recognize the evolving nature of EQ knowledge and that knowledge developed after the deadline should not serve as a basis for enforcement action. The NRC staff agrees, and in making a determination of whether the licensee clearly should have known of an EQ deficiency, the NRC staff considers whether the nature of the issue was an evolutionary process or whether sufficient knowledge was available prior to the EQ deadline to conclude that the licensee clearly should have known of the deficiency. The NRC staff exercised careful judgment in reviewing the state of knowledge which existed in the industry prior to the November 30, 1985 deadline and based its findings only on information available prior to the deadline.

Attachment 2, Section IV.B: The Notice of Violation is Fundamentally Flawed in that the Staff has Failed to Adhere to Commission Requirements Applicable to Changes to NRC Staff Positions

The licensee contended that in some of the alleged violations the NRC staff has proposed citations which are based on new or changed staff positions on what is necessary to demonstrate qualification due to evolving or more detailed EQ requirements. The licensee argued that enforcement action is inappropriate where the licensee's position has been presented to the NRC staff and the staff did not communicate its lack of acceptance of the position in a timely manner. Similarly, the licensee argues that once the NRC staff has accepted qualification of a particular item or a licensee's position in the NRC staff's Safety Evaluation Report (SER), any new position on what is necessary to demonstrate qualification should be addressed as a backfit issue.

NRC Staff's Evaluation of Licensee's Response in Attachment 2, Section IV.B

The NRC staff argues that a change in position on a particular EQ issue from those positions previously accepted should not be considered for enforcement action. However, this principle cannot be construed so broadly as to encompass broad approval of a licensee's EQ program plan. A program to qualify equipment achieves its goals only to the extent a licensee implements it; the NRC staff's acceptance of a licensee's proposed program approach does not mean acceptance of each and every component on the EQ master list. The NRC staff specifically stated in SERs that the implementation of the licensee's EQ program would be subject to future inspections. The NRC staff recognizes that the specific approval of a particular item or component would weigh in the licensee's favor in the evaluation of whether the licensee clearly should have known of the EQ deficiency, but in this case the licensee has not demonstrated that the NRC specifically accepted any of the equipment configurations identified in the Notice. Additionally, other factors would also be considered, such as whether there was a change in the underlying basis of the NRC staff's acceptance due to the licensee's mistakes, including improper installation of the component causing the qualification to be invalid, which the NRC staff would have no reasonable opportunity to identify without doing an inspection. NRC staff approval of the licensee's proposed approach to the solution of a problem does not constitute NRC staff approval of the licensee's actual actions in correcting the problem.

The NRC staff maintains, as described in the following sections, that it has not changed its positions from those communicated to the licensee and therefore believes the NRC staff has valid bases for concluding that the licensee clearly should have known of the EQ deficiencies. Accordingly, 10 CFR 50.109, the Backfit Rule, does not apply.

Attachment 2, Section V.A.1: Consideration of Undocumented Engineering Judgment to Support Equipment Qualification

The licensee asserted that the Notice fails to properly consider the licensee's legitimate (and necessary) exercise of engineering judgment in making determinations as to the qualification of electrical equipment.

The licensee argues further that a qualification file need only contain sufficient facts on which an experienced engineer could use engineering judgment to establish qualification in order to satisfactorily document qualification.

NRC Staff's Evaluation of Licensee's Response in Attachment 2, Section V.A.1

10 CFR 50.49(f) requires that each item of electric equipment important to safety be qualified by testing of, or experience with, identical or similar equipment under conditions identical or similar to postulated harsh environmental conditions, with a supporting analysis to show similarity, or by analysis in combination with partial type test data. In addition, 10 CFR 50.49(j) requires that a record of qualification be maintained in an auditable form for the entire period during which the covered item is

installed in the plant. The DOR Guidelines (Enclosure 4 to IE Bulletin 79–01B), issued on November 13, 1979, discuss qualification methods in Section 5. These guidelines state that the choice of qualification method employed for a particular application of equipment is largely a matter of technical judgment based on such factors as: (1) Severity of service conditions, (2) the structural and material complexity of the equipment, and (3) the degree of certainty required in the qualification procedure.

The DOR Guidelines further state that, based on these considerations, type testing is the preferred method of qualification and that, at a minimum, qualification for severe temperature, pressure, and steam service conditions for Class 1E equipment should be based on type testing. Also, Section 8 of the DOR Guidelines states that complete and auditable records must be available in order to document and validate qualification of equipment by any of the methods described in Section 5 of the DOR Guidelines. It further states that "these records should describe the qualification method in sufficient detail to verify that all of the guidelines have been satisfied."

The regulations as amplified in the DOR Guidelines establish the basis for the NRC staff position on the use of engineering judgment. The NRC staff has in the past and continues to find engineering judgment acceptable when used as part of a documented engineering analysis. For example, if testing a piece of equipment is precluded by physical size, then engineering judgments can be made as part of the qualification method to support engineering analysis. In addition, when equipment is qualified in accordance with 10 CFR.50.49(f), as noted above, and analysis is used as part of the qualification method, engineering judgment is an inherent part of the assumptions used. Therefore, the licensee is correct in its assertion that "the NRC has long recognized that engineering judgment is an important element of the nuclear regulatory scheme," and that "engineering judgment must necessarily be exercised in matters of design, calculation and assessment and compliance."

However, the licensee is incorrect in its assertion that the NRC staff should accept engineering judgment as a basis for demonstrating qualification in all cases. A record of qualification should be sufficiently detailed so that an individual knowledgeable in equipment qualification issues would be able to review and understand the basis for the determination that a component is qualified. As stated above, the record shall contain "partial type test data * * * to support the analytical assumptions and conclusions reached." (NUREG–0588, part I, § 2.1(2)). The DOR Guidelines state that "[t]he type test should only be considered valid for equipment identical in design and material construction to the test specimen. Any deviations should be evaluated as part of the qualification documentation." Further, "t[he] basis of qualification shall be explained to show the relationship of all facets of proof needed to support adequacy of the complete equipment." In short, in order to document the proper use of engineering judgment in qualifying under 10 CFR 50.49, the record should contain in an auditable form (1) The partial data used in the analysis, (2) the assumptions on which the analysis is based, and (3) the reasoning that leads to the judgment of qualification. Therefore, the adequacy of information contained in the qualification file can only be determined on a case-by-case basis.

Undocumented engineering judgment does not provide a complete auditable record nor can it be independently scrutinized. Undocumented engineering judgment creates a void in that a licensee will not have an auditable record of the basis upon which a component was determined to be qualified. Such an approach can lead to significant problems over the life of a plant. The basis and details of the judgment could be re-defined by each individual who might attempt to reconstruct the rationale concerning qualification. Equipment qualification based on undocumented assumptions could later be inadvertently invalidated. Consequently, undocumented engineering judgment cannot demonstrate compliance with the EQ rule. Moreover, the licensee may not rely on engineering judgment to qualify equipment, even if documented, if that judgment is unreasonable. The NRC staff accepts documented engineering judgment only if it is technically sound.

Attachment 2, Section V.A.2: The Staff's Position Regarding the Nature and Scope of Walkdowns Expected of Licensees

The licensee asserted that neither the Commission's EQ regulations (10 CFR 50.49) nor written NRC staff guidance prior to the deadline stated that a licensee was required to conduct detailed walkdowns and disassembly of all equipment to confirm subcomponent part qualification. The licensee argued that the NRC staff has changed its position to require detailed walkdowns and that the staff failed to comply with 10 CFR 50.109, the Backfit Rule, in changing its position. Moreover, the licensee argued that the regulations (which provide bounds for an acceptable EQ program) required that licensees have reasonable assurance that the equipment required to be qualified was identified and that the qualification documentation (coupled with acceptable engineering judgment) provided reasonable assurance that the equipment was qualified as installed. The licensee reasoned that it could rely on its Quality Assurance Program to install equipment as qualified and that it need not have disassembled components to inspect subcomponents therein.

NRC Staff's Evaluation of Licensee's Response in Attachment 2, Section V.A.2

The licensee asserts that "the Staff takes the position that 10 CFR 50.49 requires that licensees conduct detailed walkdowns and disassembly of EQ equipment to assure that the equipment is in the tested configuration and to provide an independent verification that subcomponent parts are indeed qualified." (APCo Response, Attachment 2, pg 15.) This assertion is incorrect. 10 CFR 50.49 does not explicitly require walkdowns or component disassembly, and the NRC staff does not assert that it does. Rather, the NRC staff's position is that at times licensees may need to rely on walk-downs to verify qualification of equipment. When a review of documentation or other information available to a licensee reveals or clearly should reveal apparent deficiencies, licensees are required to take additional action to establish compliance with 10 CFR 50.49. In this case, the failure by the licensee to perform walkdowns is not the reason for the violation; the essence of this enforcement action is the failure by the licensee to take appropriate action to establish equipment qualification when the nature of the existing EQ documentation and other information available to the licensee clearly did not establish that equipment was qualified. As stated in the Notice, "(APCo) failed to adequately review qualification files and walk down electrical equipment important to safety * * * to ensure that the as-built configuration of electrical equipment and components were in accordance with (its) qualification files." (Notice at 2.) As the Notice emphasizes, adequate walkdowns would have assisted the licensee to discover a number of the violations. Given the inadequacy of the documentation and other information

available to the licensee for the individual violations discussed below, the licensee clearly should have known of the violations. While not required by 10 CFR 50.49, walkdowns would have been an appropriate action to take in certain cases in order to identify equipment, its location, and the need to qualify equipment at that location and thereby assist in establishing equipment qualification.

A licensee may have decided that walkdowns were not necessary and that qualification could be determined otherwise. However, this approach to equipment qualification has a significant liability. Specifically, this liability is that modifications made in the field are not always reflected in final design documentation or other documents. As a result, in some cases, this approach, absent adequate engineering or quality controls, may lead to the failure to qualify some pieces of equipment that 10 CFR 50.49 requires to be qualified. As previously stated, walkdowns are not a requiement of 10 CFR 50.49, however, because walkdowns provide a very reliable method of identifying equipment and its location, they help to identify field modifications. Moreover, the verification of equipment identity and location has arisen in regard to requirements other than equipment qualification. System walkdowns have repeatedly, both before and after November 30, 1985, been demonstrated as an important part of determining whether or not a system meets applicable NRC regulatory requirements; such walkdowns frequently have shown that system configuration is different from that which is documented.

As for the licensee's assertion of an NRC staff requirement of disassembly of all equipment to confirm subcomponent part qualification, the NRC staff's position in this regard has not changed. It has always been required that the installed configuration must represent the tested configuration. NRC Information Notice 83–72 provides an example where components (terminal blocks, wiring, etc.) internal to a Limitorque valve operator, which was obtained from a vendor, were found to be unqualified for the anticipated service condition. Therefore, if equipment is obtained for use in a plant, the licensee must verify that the test report used to demonstrate qualification is representative of the obtained equipment. This verification may involve disassembly. For example, in the case of Limitorque operators, as discussed in IN 83–72, different internal wiring, insulation, terminal blocks, or other components different from those tested were found in installed Limitorque operators. Additionally, as discussed above, the licensee is responsible to ensure that modification, made in the field after the equipment is installed in the plant do not invalidate the equipment's environmental qualification. Thus, it is the NRC staff's position that the degree of disassembly, if any, necessary to assure that components are properly qualified is subject to a case-by-case determination.

Attachment 2, Section V.A.3: The NOV Incorrectly Equates Documentation Deficiencies with Unqualified Equipment, Contrary to Regulation and Staff Positions Taken Prior to November 30, 1985

The licensee contended that the NRC staff is misinterpreting 10 CFR 50.49 in declaring that equipment for which qualification is merely undocumented is unqualified. APCo maintained that "unqualified" means exactly what it says, i.e., for whatever reason, the piece of equipment will not perform its intended function. APCo considered that this meaning is fully consistent with previous NRC staff practice. APCo contended that an appropriate application of this principle would result in the NRC staff finding a violation of 10 CFR 50.49(f) only in those instances where the equipment is neither qualified nor qualifiable, i.e., where there are severe anomalies or failure of the test specimen that would indicate the inability of the equipment to perform its intended safety function.

NRC Staff's Evaluation of Licensee's Response in Attachment 2, Section V.A.3

According to 10 CFR 50.49(f), equipment can be qualified by testing of, or experience with, identical or similar equipment under conditions identical or similar to postulated harsh environmental conditions with analysis sufficient to demonstrate similarity, or by analysis in combination with partial type test data. If documented test data and experience, together with analyses, do not demonstrate equipment will operate in a harsh environment during an accident when called on to do so, that equipment is unqualified. Section 50.49(j) has required licensees to document qualification by data and appropriate analyses since it was issued in 1983. Accordingly, the NRC staff rejects the licensee's definition of "unqualified."

Prior to issuing GL 85–15, however, the NRC staff generally used the expression "unqualified equipment" to refer to equipment that had failed a qualification test. Equipment lacking the necessary qualification documentation was classed as "equipment qualification not established." This approach allowed licensees to pursue qualification by testing in order to comply with the EQ rule within the deadline. When the NRC staff issued GL 85–15 on August 6, 1985, it specifically stated that "unqualified equipment" meant equipment for which there was not adequate documentation to establish that the equipment would perform its intended functions in the relevant environment, as defined in the regulation. This definition was established before November 30, 1985, the EQ deadline. It is this definition which the NRC staff has used in its enforcement actions.

The approach or definition proposed by APCo would limit 10 CFR 50.49 applicability to equipment which has been tested. APCo's definition would permit the use of untested equipment, simply because such equipment would not have demonstrated any anomalies or failed any tests. Such an approach would defeat the clear purpose of the regulation.

Therefore, as establiehd in GL 85–15, and consistent with 10 CFR 50.49, "unqualified equipment means equipment for which there is not adequate documentation to establish that this equipment will perform its intended functions in the relevant environment."

Attachment 2, Section V.A.4: The Modified Policy Allows the Staff to Categorize as "Not Sufficiently Significant" Under Section III Certain Violations Identified By Licensees

The licensee contended that licensee-identified violations, as well as NRC-identified violations, should not be deemed significant EQ violations if the deficiencies are promptly corrected by determining the equipment is qualified or qualifiable.

NRC Staff's Evaluation of Licensee's Response in Attachment 2, Section V.A.4

The NRC staff agrees that there should not be a distinction between licensee and NRC-identified violations if the equipment affected is demonstrated to be qualified with existing information within a short period of time. The licensee's identification of the violation, however, does not lessen the violation's significance. Rather, the scope of the corrective action required to achieve compliance with the regulations indicates the violation's significance The intent of the Modified Policy was not to call EQ violations, for which

information was readily available or accessible, significant. Minor file deficiencies, which are resolved by adding references or inserting pertinent documents to the file are intended to be Severity Level IV or V violations, regardless of who found them. On the other hand, violations which take some effort to prove qualification, such as significant analysis, testing, or extended efforts to produce or find the necessary information, will be considered significant violations and therefore considered for a possible civil penalty. The NRC staff considered this when evaluating the severity of the proposed violations.

Contrary to APCo's suggestion, this policy does not put a licensee in a better posture if that licensee relies on NRC inspections to identify EQ violations before correcting them, rather than proactively identifying and correcting violations. In short, a licensee that proactively identifies and corrects violations may be granted mitigation of civil penalties proposed for significant violations, while a licensee's failure to so act may prompt escalation of a proposed civil penalty. Accordingly, the licensee's identification and correction of a violation does not affect the violation's significance, but influences the NRC staff's application of the escalation and mitigation factors.

Attachment 2, Section V.A.5: Certain Potential Violations Impacting EQ are Inappropriately Assessed Under Regulatory Provisions of 10 CFR 50.49

The licensee contended that enforcement action under the Modified Policy is inappropriate in those cases in which the underlying violation is not within 10 CFR 50.49, but within other NRC requirements. The licensee's basis is that some deficiencies may cause deviations from EQ requirements, but the regulatory concern is not with 10 CFR 50.49, but with the underlying practices which produced the deficiency, such as a failure of the quality assurance process.

NRC Staff's Evaluation of Licensee's Response in Attachment 2, Section V.A.5

The NRC staff disagrees with this view in that under 10 CFR 50.49 licensees were expected to take appropriate actions (e.g., field walkdowns, review of installation and quality control records, and hardware examination) in order to assure that equipment has maintained its qualification status through appropriate design, procurement, installation, and maintenance practices. EQ is not solely an engineering function. Further, it is not sufficient for licensees to rely only on design and procurement records to assure that components are qualified as installed in the plant. While the licensee may have violated regulatory requirements other than 10 CFR 50.49, this enforcement action is focused on problems in environmental qualification. (The NRC staff expects the licensee to correct any other violation it might identify.) In summary, failures in any of the above functional areas can adversely affect the qualification of equipment and can be considered violations of EQ requirements.

Part II—Discussion of Individual Alleged Violations

Attachment 1, Section III.A, and Attachment 2, Section V.B Alleged Violations Relating to Electrical Splices (Alleged Violations I.A.1 and I.A.2)

Restatement of Violations I.A.1 and I.A.2. A. 10 CFR 50.49 (d), (f) and (j), respectively, require in part that (1) the licensee shall prepare a list of electric equipment important to safety covered by 10 CFR 50.49, (2) each item of electric equipment important to safety shall be qualified by testing of, or experience with, identical or similar equipment, and that such qualification shall include a supporting analysis to show that the equipment to be qualified is acceptable; and (3) a record of the qualification of the electric equipment important to safety shall be maintained in an auditable form to permit verification that such equipment is qualified and that it meets the specified performance requirements under postulated environmental conditions.

Contrary to the above, from November 30, 1985 until the time of the inspection which was completed on September 18, 1987:

1. APCo had V-type electrical tape splices installed on numerous safety-related electrical components including solenoid and motor operated valves. These tape splices were installed in various configurations and material compositions which were not documented as being environmentally qualified to perform their function under postulated accident conditions at the Farley Nuclear Plant (FNP) Units 1 and 2. The various configurations of V-type electrical tape splices had not been previously tested or demonstrated to be similar to an appropriately tested configuration. Furthermore, these tape splices were not installed in accordance with approved electrical design details or notes for splices or terminations, and were not identified on the environmental qualification (EQ) Master List of electrical equipment required to be qualified under 10 CFR 50.49.

2. APCo did not have documentation in their EQ file to demonstrate that the in-line 5-to-1 field-to-pigtail tape splice configuration, used on the Hydrogen Recombiners, which are important to safety, in both units, would perform its intended function during a design basis accident. The tape splices had not been tested nor demonstrated by supporting analysis to be similar to a tested configuration, and were not identified on the Master List of electrical equipment required to be qualified under 10 CFR 50.49.

Attachment 1, Section III.A, and Attachments 2, Section V.B: Alleged Violations Relating to Electrical Splices (Alleged Violations I.A.1 and I.A.2)

Attachment 2, Section V.B.1: V-Type Electrical Tape Splices (Alleged Violation I.A.1)

Attachment 2, Section V.B.2: In-line 5-to-1 Pigtail Tape Splices, (Alleged Violation I.A.2)

The licensee argued that the qualification of V-type electrical tape splices is not appropriate for enforcement under 10 CFR 50.49 (d) or (f) because the violation was not attributable to the licensee's EQ program, but rather to a violation of some other requirement, for example, the licensee's quality assurance program. The licensee submits that, at most, a documentation violation of 10 CFR 50.49(j) may have existed. The licensee stated that the methodology used in preparing the master list was reviewed and approved by the NRC staff in 1984, and, therefore, if 10 CFR 50.49(d) requires the licensee to include splices on its master list, the staff must comply with 10 CFR 50.109, to impose the requirement and prepare a backfit analysis. The licensee also argued that splices are parts or subcomponents of electrical equipment important to safety and, therefore, are not "equipment" that must be qualified.

The licensee attempted to demonstrate qualification of the splices by using a Wyle Laboratories test report prepared for Commonwealth Edison Company (CECo). Additionally, the licensee had a test performed specifically for APCo which was to demonstrate qualification of the V-type tape splices in their "as-found configurations." The licensee states that the qualification status of V-type tape splices was, at most, uncertain on November 30, 1985. APCo argued that, while its documentation did not directly address V-type splices, it did qualify the procedure for sealing qualified straight-line splices, or terminations, and because the licensee used this procedure to install V-type splices, it provided reasonable assurance of qualification of V-type splices. APCo submitted that the failure to directly address V-type splices

at most could be construed as a documentation deficiency.

The licensee argued that, even if the NRC staff still considers these issues violations of 10 CFR 50.49 after considering the technical arguments presented above, the NRC staff has not satisfied its obligation to demonstrate that APCo clearly should have known of the violations before November 30, 1985. The licensee contended that for the V-type splices the NRC staff's Notices and Circulars are not adequate to support a finding or clearly should have known for this concern and that there was no requirement for the licensee to perform detailed walkdowns of equipment to inspect interconnections such as V-type splices. The licensee further contended that, in balancing the factors of the Modified Policy, its documentation and existing installation and installation review process provided reasonable assurance that these splices were implemented in accordance with approved instructions and produced a qualified interconnection. Additionally, APCo argued that it had no prior notice of this concern and was unaware of other licensees' actions regarding splice qualification. Finally, with respect to V-type splices, the licensee asserted that any violation was not sufficiently significant to warrant a civil penalty because the licensee promptly demonstrated qualification of the splices by testing and with Wyle Report 17859–02.

The licensee also denied the alleged violation that the in-line 5-to-1 pigtail-to-field tape splices in the hydrogen recombiners were unqualified. The licensee claimed that the splices were qualified by WCAP–9347, "Qualification Testing for Model B Electric Hydrogen Recombiner", and WCAP–7709–L, "Electric Hydrogen Recombiner for PWR Containments." The basis for qualification as stated by the licensee is similarity between the splices. The licensee also made the same generic arguments with respect to the appropriateness of the violation and claim of tacit NRC staff approval of the connection as it made with respect to V-type splices.

With respect to the in-line 5-to-1 pigtail-to-field tape splices the licensee reiterated its position that there was no requirement to perform detailed walkdowns to inspect interconnections. Further, the licensee argued that the information provided by Westinghouse regarding the proper methodology for connecting the hydrogen recombiner to its power supply and adherence to that methodology and accepted practices provided reasonable assurance that the 5-to-1 splices were qualified. APCo asserted that, accordingly, a fair application of the factors set forth in the Modified Policy would not show that APCo clearly should have known of this violation.

Finally, the licensee acknowledged that the available EQ documentation did not clearly identify the termination configuration within the hydrogen recombiner. The licensee contended that since these were documentation problems, they should not be considered for escalated enforcement. Additionally, the licensee argued that since JCOs were promptly developed, there was not sufficient safety signficance to impose a civil penalty under the Modified Policy.

NRC Staff's Evaluation of Licensee's Response in Attachment 1, Section III.A and Attachment 2, Section V.B.1 and Section V.B.2

The licensee's argument that EQ splices, such as those involved in the Notice, are not required to be separately identified on the EQ Master List is not supportable. As discussed in many NRC generic issuances, splices as well as other connections, are items of electrical equipment important to safety, and 10 CFR 50.49 (d) and (f) apply to them. Accordingly, 10 CFR 50.49(d) required APCo to list the splices. Even though the facts may establish other violations, such as violations of 10 CFR part 50, Appendix B, those violations do not preclude the NRC staff from making citations for violations of environmental qualification requirements. The following shows in detail why the NRC staff did not expressly or tacitly approve the way the licensee handled qualification of splices.

The SER issued December 13, 1984 (See Appendix B, Reference 3), states that equipment for Farley Nuclear Plant (FNP) Units 1 and 2 is to be qualified to the requirements of either DOR Guidelines or NUREG–0588. NUREG–0588 states that "* * * it is necessary to recognize and address equipment interfaces (e.g. mounting, seals, terminations) in the qualification process * * *." The NRC staff agrees that its review accepted the licensee's methodology or approach used to identify systems and equipment within the scope of 10 CFR 50.49. However, the NRC staff's review did not include verification of completeness of the licensee's listing of safety-related equipment. As stated in the Franklin Research Center's (FRC's) TER for FNP, "[t]opics not within the scope of the evaluation (include) completeness of the Licensee's listing of safety-related equipment(.)" (FRC TER for FNP Unit 1, at 3–4.) The list of equipment that was reviewed was supplied by the licensee and for the purposes of the TER, assumed to be complete. It has always been the position of the NRC staff that splices (terminations) are to be qualified and, therefore, must be included on the EQ master list with supporting documentation. Because this has always been the NRC staff's position, and the licensee should have been aware of that position by virtue of NUREG–0588, among other documents, the licensee's claim of backfit is not supported by the facts.

V-Type Splices

The licensee admitted that the documentation for the qualification of the V-Type tape splices did not exist on November 30, 1985 (a violation of 10 CFR 50.49(j)). In fact, the licensee admitted that the qualification status of these V-type tape splices was uncertain requiring additional testing, inspections, and analysis in an attempt to qualify the V-type tape splices.

The licensee's claim that the splices were subsequently shown to be qualified by the test report prepared for CECo is not adequately supported because there were failures of splices in that test. Those failures were not evaluated to demonstrate they would not invalidate the qualification of the splices used by APCo and therefore, without further analysis or testing, qualification was not demonstrated. Further, the licensee did not have an analysis that demonstrated the similarity of the splices installed at FNP and those tested for CECo. APCo's later tests do not qualify the V-type splices because they, as the test discussed above, were conducted in 1987, well after the EQ deadline. Putting aside the date of the later testing, APCo was again unable to show that the tested configurations encompassed all installed configurations. That situation resulted from APCo's failure to ensure that the installed splices had been installed in accordance with appropriate design drawings. Therefore, while APCo was able to approximate the various installed configurations during the testing it could not exactly reproduce any of them because there were no records of how they were installed. That being the case, qualification of the installed configurations could not be assured. In summary, as of November 30, 1985, APCo had not tested the V-type splices nor had it analyzed them to show similarity to a tested splice. Accordingly, APCo had not qualified or documented qualification of V-type splices.

The assertion that the NRC staff has not satisfied its obligation to demonstrate that APCo clearly should have known that it had not qualified these splices by the deadline is also incorrect. The basis on which the NRC staff concluded that escalated enforcement was warranted for tape splices was stated in the Notice dated August 15, 1988 (page 2). The NRC staff considered all four factors listed in the Modified Policy in making the determination that APCo clearly should have known that the V-type tape splices were not qualified. As explained earlier, the NRC staff does not balance these factors. Moreover, all four of the factors provide information to show that APCo clearly should have known of this violation before the deadline.

Factor number one was applicable because the Okonite splice documentation, available in the qualification file prior to the deadline, clearly only addressed shielded power cables and therefore should have alerted the licensee to the need for more specific information. Factor two applied because APCo records did not show what kind of splice was installed in a particular location, nor did its quality control procedures assure that these splices were installed according to drawings for an environmentally qualified splice. In fact, only one qualified splice, for 4160 volt power circuits, was shown on the drawings. Moreover, licensee walkdowns or field verifications were inadequate because they did not consider electrical connections which were components that licensees were required to account for in demonstrating qualification. Factor three was considered applicable because NUREG–0588 states that it is necessary to recognize and address equipment interfaces to qualify equipment. In addition, while the NRC staff did not specifically identify V-type splices as causing qualification deficiencies, the NRC staff did give the licensee prior notice of splice problems by issuing generic documents, as described below. Factor four was considered applicable because other licensees had identified qualification problems with cable splices. For example, NRC Circular 78–08, at page 3. describes when electrical cable splices associated with electrical penetration assemblies were determined to be unqualified by a licensee during a search for qualification documentation. In addition, NRC Circular 80–10 identifies another example where the wrong class of insulating material had been used on the motor leads of a containment fan cooler. In that Circular the NRC staff emphasized the ". . . importance of properly installing and maintaining environmentally qualified equipment which clearly requires more than a review of QA records.

The NRC staff reviewed the various NRC inspection reports referenced by the licensee to support its position that the safety significance of the violation was judged to be inappropriately higher than that of similar violations cited at other plants. Based on that review, the NRC staff concluded that there were two important differences between the condition found at FNP and those cited by APCo that make the FNP condition more significant. First and most importantly, the other licensees cited by APCo had accurate records of the splice configurations used and therefore, similarity arguments to qualified configurations, albeit after-the-fact, could be made. Second, in at least one case (Grand Gulf) the type of splice used was substantially different than that used at FNP. Therefore, given the dissimilar circumstances of the two actions, it is not apparent to the NRC staff what the licensee's specific basis is for concluding that similar dispositioning of these two issues is appropriate.

10 CFR 50.49 required splices to be on the master list as separate items or to be explicitly considered as parts of other listed equipment. Because 10 CFR 50.49 required the above and also required the demonstration of splice qualification by testing and necessary similarity analysis, the licensee clearly was in violation of 10 CFR 50.49 (d), (f), and (j) at the time of the finding. A second test developed specifically for APCo which ostensibly confirmed qualification of the V-type splices in their as-found configuration is outside the bounds of GL 88–07 because it was viewed by the NRC staff as done after-the-fact in a situation where APCo clearly should have known that its documentation was not sufficient. Moreover, as described above, this test was technically insufficient to establish qualification of the splices. Therefore, classification of this item as significant, as set forth in the Modified Policy, is warranted. The licensee's contention that this violation should not be considered for enforcement action under 10 CFR 50.49 or the Modified Policy is also considered invalid because the EQ program implemented by the licensee must ensure that the equipment is installed similar to the way it was tested. In the case of the V-type tape splices, at the time of the inspection the licensee did not have documentation in its EQ files which would support the qualification of V-type tape splices inside containment in instrument circuits, control circuits, or power circuits other than in-line shielded power cable tape splices. Moreover, APCo could not correct the documentation deficiencies with information already in its possession, but had to obtain new information by testing and through analysis. The Modified Policy evaluates such deficiencies as significant. Therefore, the violation stands as stated.

5-to-1 Tape Splice

The licensee's claim that the hydrogen recombiner splices were qualified by similarity to splices qualified by Westinghouse reports WCAP–9347 and WCAP–7709–L is not valid. These reports do not indicate the materials used or the configuration of the splices. Therefore, a similarity analysis cannot be made nor, at the time of the inspection, was there sufficient documentation provided to support a similarity argument. The NRC letter from J. Stolz, dated June 22, 1978, which approved qualification of the hydrogen recombiners, did not approve the specific type of splices APCo installed at FNP and did not provide further information with which APCo could have performed a similarity analysis to the splices discussed in the Westinghouse reports.

The NRC staff agrees that the Westinghouse test reports discussed above demonstrate qualification for the heaters and power cables that are subcomponents of the recombiner. The NRC staff also agrees that the tested sample had some type of splice configuration. However, Westinghouse states in its installation literature for hydrogen recombiners that the purchaser is to use its own installation procedures to install qualified splices on the pigtail connections. Therefore, it was incumbent on APCo to ensure a qualified splice was used. Further, given that the type of splice used by Westinghouse was not specifically described, it was APCo's responsibility to provide other documentation of the qualification besides a references to an unknown splice, in order to qualify the particular type of splices that were used.

The assertion that the NRC staff has not satisfied its obligation to demonstrate that the licensee met the "clearly should have known" test is incorrect. As stated earlier in the response to V-type tape splices, the NRC staff's position regarding escalated enforcement for 5-to-1 tape splices on the hydrogen recombiners was stated in the Notice dated August 15, 1988 (at page 2). The NRC staff considered all

four factors of the Modified Policy in making the determination that APCo clearly should have known that the 5-to-1 tape splices on the hydrogen recombiners were not qualified. The NRC staff did not balance those factors but, each of them provide information to demonstrate that APCo clearly should have known of the violation before the deadline.

Factor one was considered applicable because the vendor documentation does not address what type of splice was used in the test report. The licensee indicated that the splice were made in accordance with vendor instructions which provided direction regarding the construction of connections with the power leads. Because the vendor instructions referred to the unidentified splice of the test report, the licensee should have clearly known that its procedures were inadequate to construct a qualified splice similar to the tested configuration. Additionally, the licensee also clearly should have known that the configuration was not similar to the qualified shielded power cable configuration. Specifically, the qualification file for power shielded cable splices only addressed a one-to-one splice and not the 5-to-1 splice used by APCo.

Factor two was considered applicable because the licensee's documentation and walkdowns or field verifications were inadequate as discussed earlier for V-type tape splices. Factor three was considered applicable because NUREG-0588 states that it is necessary to recognize and address equipment interfaces to qualify equipment. In addition, while the NRC staff had not previously provided notice specifically identifying qualification questions regarding the hydrogen recombiner power lead splices or terminations, the NRC staff did give prior notice of splice problems. Factor four was considered applicable because other licensees had reported problems with unqualified splices (NRC Circulars 78-08 and 80-10, as described above), although not specifically on hydrogen recombiners.

The licensee argues that at least two other licensees had not addressed this question to the satisfaction of the NRC inspectors and that this suggests that the matter was not so clear that APCo "clearly should have known" of the existence of the problem. The NRC staff rejects this argument. The failure of two other licensees to address similar problems does not necessarily lead to the conclusion that APCo should not clearly have known of the violation. The information provided under the four factors, considered collectively as described, supports the NRC staff's determination that APCo clearly should have known of this violation as of the deadline.

In the case of the 5-to-1 tape splices, factors one, two, three, and four were determined to demonstrate that the licensee clearly should have known, therefore, the violation stands as stated.

The NRC staff's position concluding that all of the cited violations were significant is addressed in the response to Section III.B of Attachment 2 of APCo's response. (See supra p. 2.) Further, that position was previously addressed in a letter from the NRC staff to the Nuclear Utility Group on EQ (see Appendix B, Reference 6). With respect to 5-to-1 tape splices in particular, APCo had to develop new information by test or analysis to qualify such splices. The Modified Policy describes cases where the data already exists or can be developed to establish qualification in a very short time as insufficiently significant to warrant a civil penalty. Such was not the case with 5-to-1 tape splices. Accordingly, this was a significant violation.

For both 5-to-1 and V-type splices, the licensee's preparation of a Justification for Continued Operation (JCO) is irrelevant to safety significance. A licensee that failed to prepare a JCO in response to identified violations of 10 CFR 50.49 would have been required to shut down. The Modified Policy clearly states how the NRC staff will evaluate the significance of violations of 10 CFR 50.49, as described earlier, and nothing in a JCO can change that determination.

The licensee argues that escalated action is not warranted because the NRC staff chose not to impose escalated action on at least two other licensees with similar problems. The NRC staff rejects this argument because the action taken for apparently similar problems at other plants, for whatever reason, are irrelevant to this action. Moreover, the differences in the equipment involved and the circumstances surrounding the violations at the other facilities (Grand Gulf and Catawba) resulted in the NRC staff classifying those violations at Severity Level IV.

Restatement of Violations I.B.1 and I.B.2. B. 10 CFR 50.49 (f) and (k), respectively, require in part that (1) each item of electric equipment important to safety shall be qualified by testing of, or experience with, identical or similar equipment, and that such qualification shall include a supporting analysis to show that the equipment to be qualified is acceptable; or (2) electric equipment important to safety which was previously required to be qualified in accordance with NUREG-0588 (for comment version), Category II, "* * * Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment" need not be requalified to 10 CFR 50.49. NUREG-0588, Category II, Section 5.(1), states in part that, "the qualification documentation shall verify that each type of electrical equipment is qualified for its application and meets its specified performance requirements, and data used to demonstrate the qualification of the equipment shall be pertinent to the application and organized in an auditable form."

Contrary to the above, from November 30, 1985 until the time of the inspection which was completed on November 20, 1987:

1. The documentation in APCo's FNP qualification file did not demonstrate by testing, supporting analysis, or verification that States terminal blocks (Model Nos. NT and ZWM) would maintain acceptable instrument accuracy, a performance requirement, during design basis accidents. In addition, APCo did not have adequate documentation to demonstrate General Electric (Model No. CR151) terminal blocks would maintain acceptable instrument accuracy during design basis accidents in that a qualification file for these components did not exist.

2. APCo did not document qualification of the Chico A/Raychem seals used for limit switch and solenoid valve cable entrance seals in that the available file was incomplete, and test data and supporting analysis provided by the licensee were insufficient to demonstrate qualification. Specifically, the testing performed did not consider possible chemical interactions and the temperature profile used in the testing did not simulate the initial thermal shock of a loss of coolant accident (LOCA) transient.

Attachment 1, Section III.B and Attachment 2, Section V.C: Alleged Violations Relating to Instrument Accuracy and Cable Entrance Seals (Alleged Violations I.B.1 and I.B.2)

Attachment 2, Section V.C.1: States/General Electric Terminal Blocks (Alleged Violation I.B.1)

The licensee denied that it lacked documentation for States terminal blocks models Nos. NT and ZWM to satisfy EQ requirements. The licensee based its denial on the assertion that such documentation should be considered with the then ongoing process of evaluating terminal block performance. The licensee claimed that

on November 30, 1985, its files contained "Wyle Test Report 44354–1," dated March 8, 1979, which demonstrated the overall LOCA qualification of those blocks. The licensee stated that the report, while not specifically recording leakage current values during the test, did record leakage current values at the conclusion of the test for terminal point-to-point and point-to-ground, and that those values were recorded for multiple connections with an applied voltage of 137.5 VDC.

The licensee stated that it supplied Westinghouse the leakage current values to have a set-point accuracy analysis performed. The licensee informed the NRC staff of the analysis and responded to a question regarding the effects of leakage current on the equipment within the scope of 10 CFR 50.49. The licensee contended that it supplied this analysis to the NRC staff on February 29, 1984, in response to the NRC staff's question, and that the NRC staff accepted this answer because the SER concluded that "the proposed resolution for each of the environmental qualification deficiencies * * * is acceptable." APCo further asserted that, because the NRC staff issued its SER for Farley after it issued IN 84–47, the NRC staff tacitly approved APCo's approach to answering the questions raised in IN 84–47. Furthermore, the licensee claimed the NRC staff acknowledged this dispute as a reasonable difference of professional opinion in a meeting on November 25, 1987.

The licensee further denied that documentation for General Electric terminal blocks was nonexistent. The licensee admitted that "certain of the documentation for the General Electric terminal blocks was not in the EQ file at the time of the audit." The licensee also stated that such documentation was made available for audit at the exit interview. The licensee argued that the NRC staff tacitly approved its approach to the leakage current problem for the GE terminal blocks, just as the NRC staff did for States terminal blocks.

The licensee asserted that it qualified all these terminal blocks in September 1987 by similarity analysis; under the licensee's definition of "qualified," there would be no violation.

The licensee argued that if these deficiencies do represent a violation, they are not of sufficient safety significance to impose a civil penalty under the Modified Policy. The licensee relied on its JCO presented on November 25, 1987, to support this position. The licensee asserted that IN 82–03 and 84–57, and IE Circular 78–08 were insufficient to clearly lead it to this issue because they do not refer to instrument loop accuracy.

Attachment 2, Section V.C.2: Chico A/Raychem Seals (Alleged Violation I.B.2)

The licensee denied the failure to document the qualification of the Chico A/Raychem seals for NAMCO limit switch cable entry seals. The licensee contended that there was sufficient documentation in an auditable form to qualify the seals for their intended application. The licensee stated that the Notice implies that the performance requirement is "to prevent possible degradation of the metal pipe nipple." The licensee contended that the purpose of the seal was to prevent short circuits and not pipe nipple degradation. Because of this implication, the licensee argued that the requirements in the Notice exceed those of the appropriate regulations. The licensee also argued that the test condition for thermal shock was more extreme than the postulated accident environment. Moreover, the licensee asserted that test reports it possessed before the deadline showed that the Raychem bonding material would not cause the metal pipe nipple to corrode.

The licensee further argued that there was no evidence to support the clearly should have known test. The licensee contended that if this is found to constitute a violation, there is not sufficient safety significance to impose a civil penalty under the Modified Policy. Furthermore, the licensee alleged that the NRC staff has considered similar violations by other utilities at Severity Level IV.

NRC Staff's Evaluation of Licensee's Response in Attachment 1, Section III.B, and Attachment 2, Section V.C

Violation I.B.1 (Terminal Blocks)

The SER dated December 13, 1984, stated that APCo was performing additional analysis or submitting new documentation for deficiencies identified in the Franklin Research Center (FRC) TER. The SER went on to state, however, that the NRC staff had not reviewed the additional analysis or documentation, but had discussed with APCo what the content of the new analysis or documentation would have to be to resolve the identified deficiencies. (SER at 4.) The SER continues by stating that the qualification files would be audited at a later date to verify that they contained the necessary documentation to support the licensee's conclusion that the equipment was qualified. At no time did the NRC staff expressly or tacitly approve the use of leakage current measured after a test, rather than during a test, to qualify terminal blocks used in instrument circuits. While the NRC staff approved APCo's proposed approach of referencing a particular test report to resolve this deficiency, the NRC staff did not then review or approve what APCo actually did. Had the test report contained the appropriate data, further analysis could have resolved the issue. Wyle Test Report 44354–1, however, contained data for circuits operating at 137.5VDC (control circuits) and not circuits operating at nominally 45VDC or below (instrumentation circuits). The effects of small leakage currents on a control circuit may be inconsequential, but, demonstrating that fact would not necessarily demonstrate the acceptability of the component for use in an instrument circuit where even a small amount of leakage current can have a significant effect. Accordingly, because the Wyle test report contained data for only control circuits, it did not qualify States terminal blocks for use in instrument circuits. Additionally, while IN 84–47 relates to the deficiency identified in the TER, the SER does not refer to it but only to information that APCo related to the NRC staff before the NRC staff issued IN 84–47. Accordingly, the December 13, 1984, SER did not approve APCo's resolution of the issues raised in 84–47 for any terminal blocks. Finally, the NRC staff disagrees with the licensee's assertion that this dispute was only a reasonable difference of professional opinion. In the November 25, 1987 meeting which was documented in a letter from the NRC staff dated December 2, 1987, it was acknowledged that there was disparity in EQ test data for like and different terminal blocks. Further, it was acknowledged there were differences in interpretation of the EQ test data to be applied at FNP. The NRC staff never agreed that the data presented demonstrated qualification for the terminal blocks. In fact, the NRC staff considered the licensee's arguments to be non-conservative. However, any exchange at that meeting could not affect either APCo's pre-deadline knowledge of what was required to qualify terminal blocks in instrument circuits or the documentation that existed in the APCo files at the November 30, 1985 deadline.

At the time of the inspection, the FNP files for the States terminal blocks did not contain sufficient information to support qualification for use in instrument circuits. The licensee admits in the reply to the Notice that the leakage current values were taken after the LOCA testing was completed, not

during as was required, and that the voltage level was for control circuits, not instrument circuits. The values of insulation resistance provided to Westinghouse, after the deadline, were not the values supported by test data for the States terminal blocks and were not supported by other test data and accompanying analysis. Therefore, the conclusion that the use of the terminal blocks in instrument circuits was acceptable was not adequately supported.

The NRC staff agrees that the licensee did present a test report that included information on the subject GE terminal blocks, but disagrees that the report demonstrated qualification of the terminal blocks. The qualification file for the GE penetrations was not auditable in that it did not include any test data or reference any test report for the installed GE terminal blocks and therefore, qualification was not demonstrated by the GE penetration qualification file. At the time of the inspection the licensee did not present any additional information that would specifically qualify the GE terminal blocks for instrumentation circuits. However, the licensee did attempt to show qualification by similarity to Connectron Inc. terminal blocks tested by Conax but failed to analyze design, material and construction differences between the terminal blocks. Additionally, as addressed above for States terminal blocks, the licensee failed to analyze acceptability of instrument accuracy if the GE terminal blocks were used in instrument circuits. Accordingly, GE terminal blocks number CR 151 were not qualified for use in instrument circuits.

APCo's contention that GE and States terminal blocks were qualified by additional analysis and testing in 1987 and that there was no violation fails because the regulation requires qualification by Novmber 30, 1985. The violations were significant in that the terminal blocks were not qualified for use in instrumentation circuits and involved instrumentation penetrations for the safety-related instruments within containment (See supra pp. 2–4)

The assertion that the NRC staff has not satisfied its obligation to demonstrate that APCo clearly should have known that the terminal blocks were not qualified before the deadline is incorrect. The basis on which the NRC staff concluded that escalated enforcement was warranted for States and GE terminal blocks that were unqualified for use in instrument circuits was stated in the Notice dated August 15, 1988 (page 2). The NRC staff considered all four factors listed in the Modified Policy in making the determination that APCo clearly should have known that these terminal blocks were not qualified. It is the NRC staff's position that, as described earlier in this Appendix, any one of the factors can establish that the licensee clearly should have known of the violation. For terminal blocks, each of the four factors provided information to establish that the licensee clearly should have had the required knowledge.

Factor number one was applicable because the documentation provided by the licensee was not only inadequate to demonstrate qualification of either the State or GE terminal blocks but clearly applied only to control circuits. Therefore, the licensee should have clearly recognized that qualification in instrument circuits was not demonstrated.

Factor two was applicable because the licensee's documentation was inadequate to demonstrate that the installed configuration was the same as the tested configuration. Moreover, the licensee's walkdowns or field verifications did not consider whether the installed configuration was similar to the tested configuration. This is significant in that the installed configurations differed from the tested configuration because they had top entry conduits, the terminal boards were vertical, and the boxes did not have weep-holes, all of which would make the installed configuration more likely to fail than the tested configuration for control circuits. Therefore, the licensee's contention that it should not have clearly known that the terminal blocks were unqualified is not supported.

Factor three was considered applicable because the NRC staff had previously issued Information Notices specifically addressing the qualification of terminal blocks. Information Notice 82–03 specifically stated that NRC requires qualification of all electrical connections, cable splices, as well as terminal blocks, for accident conditions. Information Notice 84–47 provided guidance on appropriate corrective action when leakage current data was missing from tests to qualify terminal blocks. This available information should have led a knowledgeable engineer to conclude that terminal blocks were not qualified for use in instrumentation circuits in a harsh environment.

Factor four was considered applicable because other licensees had identified qualification problems with terminal blocks and had replaced them with qualified cable splices. For example, NRC Information Notice 84–47, even though not specifically mentioned in the Notice, should have been evaluated by the licensee and appropriate corrective action taken. This should have led the licensee to determine that terminal blocks were not qualified for use in instrumentation circuits.

The NRC does not accept the licensee's argument that the issuance of an SER relating to EQ at about the time of the issuance of Information Notice 84–47 was a reasonable basis for the licensee to conclude the licensee need not review the Notice and the information evaluated. As stated above, the SER was clearly issued to resolve only issues previously identified by the NRC consultant's review of the APCo EQ program. Any conclusions drawn by the SER were based on the licensee's satisfactory resolution of the previously identified issues and not on the licensee's actions relating to emerging issues such as those discussed in the Information Notice, which just happened to come to light at about the same time.

For the reasons set forth above, the NRC staff determined that the licensee clearly should have known prior to November 30, 1985, that the States and GE terminal blocks were not qualified for use in instrumentation circuits in a harsh environment. Thus, the violation stands as issued.

Consistent with the NRC staff's earlier position, the States and GE terminal blocks are clearly a safety significant issue warranting escalated enforcement under the Modified Policy. APCo did not provide information during or shortly after the inspection that qualified these terminal blocks; accordingly, APCo did not satisfy the cirterion set forth in the Modified Policy for considering a violation insufficiently significant to warrant assessment of civil penalty.

Violation I.B.2 (Chico A/Raychem Seal Configuration)

With respect to the Chico A/Raychem seal configuration, the licensee contended that the NRC staff had only two concerns which were the failure to consider possible chemical interactions and the adequacy of the tested temperature profile. The NRC staff considers the licensee's reading of the Notice as overly narrow. The Notice states that the temperature profile must simulate that of a LOCA transient. In other words, temperature cannot simply be considered in isolation from other effects. Clearly, both moisture and pressure must be considered because they are LOCA effects that are inseparable from the temperature profile. The NRC staff's position to that

affect is stated on page 40 of NRC Inspection Report 50–348 and 50–349/87–30 dated February 4, 1988. As discussed in that inspection report the NRC staff concluded that the Chico A/Raychem configuration used by APCo was unqualified not only because the testing relied on by the licensee did not include chemical spray but also because the environment of the testing was not as harsh as that of the plant LOCA profile. Specifically, the test was deficient because moisture was absent and peak pressure was not simultaneously applied with peak temperature.

By relying on testing that did not include moisture and the application of maximum pressure on that moisture during the period of maximum temperature the licensee would never know if moisture could intrude into the electrical components. With the application of peak pressure simultaneously with peak temperature in a steam/moisture environment it might well have been demonstrated that moisture leakage through the seal would occur during a period of differential expansion between the pipe nipple and the seal material and electrical shorting, which is clearly the NRC staff's concern, could occur. In the NRC staff's judgment, the examination of the thermal profile without the LOCA factors of simultaneous pressure and moisture, is meaningless and arguments about the initial temperature conditions are of little import without considering the other factors.

With respect to chemical interaction, the licensee provided information that stated Raychem material (including the bonding material) had previously been qualified with chemical sprays. A separate statement was made that there were no known deleterious effects from chemical sprays on the Chico A/Raychem seal configuration, and separate information was provided to demonstrate chemical spray would not affect galvanized steel conduit. From the information provided, the licensee concluded that its engineers made a reasonable engineering judgment to determine that chemical spray would not impact qualification of the seal configuration.

It was incumbent on the licensee to demonstrate that there would be no deleterious effects from chemical spray on the Chico A/Raychem seal configuration before the deadline. There are presently no known deleterious effects on the Chico A/Raychem configuration simply because, to the NRC staff's knowledge, the testing has not been conducted. Wyle Test Report 58730, relied on by the licensee to support its position that chemical spray would not affect galvanized steel, was not present in the FNP files at the time of the inspection, was appartently not known to the licensee at the time of the enforcement conference, and clearly was not relied on by APCo engineers in making their judgment about the qualification of the seal configuration prior to November 30, 1985. Finally, the licensee has not provided any basis to show how a test report on the effects of chemical spray on Raychem material and another report on the effects of chemical spray on galvanized steel demonstrate that the adhesion between the two materials will be unaffected by the chemical spray.

The licensee argues that such a level of documentation is beyond that required by the appropriate regulations. Further, specific to possible chemical interactions, the licensee asserts that the NRC staff provided no basis in the Notice as to why APCo clearly should have known of the possibility of interaction between metal and the chemical spray causing an adhesion problem between the metal surface and the Raychem material.

With respect to the licensee's general argument about the level of documentation it had, the NRC staff must reiterate that it is clear from the licensee's response, that not all of the documentation now relied on to make a qualification argument, was available at the time of the inspection. More importantly that documentation was not in the FNP files prior to the EQ deadline. Nevertheless, the NRC staff concludes that even with the information provided subsequent to the inspection the licensee has not demonstrated qualification of the Chico A/Raychem seal configuration (which was subsequently replaced) and clearly should have known that qualification had not been demonstrated. First and most fundamentally, none of the testing relied on by the licensee demonstrated that the Chico A/Raychem seal configuration or a similar configuration would function in a full LOCA environment. APCo clearly should have known what parameters it would have to evaluate, including temperature, pressure, humidity and chemical spray, because 10 CFR 50.49 specifically identifies them. Second, with regard to the licensee's specific argument about possible chemical spray interactions the NRC staff stands by the conclusion reached in the cover letter to the Notice. Possible chemical interactions are a fundamental area of concern specifically identified in the regulation which APCo clearly should have considered.

All Raychem installation instructions provide detailed guidance for surface preparation to ensure proper adhesion of the bonding material. Clearly, if the surface to which the bonding material is applied might corrode, as indicated by Wyle Test Report 58730, the physical and chemical properties of that surface may change and there would no longer be any assurance that the bonding material will properly adhere. Therefore, water could leak past the seal and cause an electrical short circuit. With respect to this violation, it was not necessary for the NRC staff to consider any of the factors of the Modified Policy to conclude that the licensee clearly should have known before the deadline of the failure to qualify the seals. As described earlier, the NRC staff determined that APCo clearly should have had the appropriate knowledge because (1) it acknowledged that the seals required qualification and (2) the testing did not apply harsh conditions simultaneously, nor did analysis demonstrate that the testing established qualification. Accordingly, the testing and analysis to qualify the seals was inadequate on its face so that it could not satisfy the requirements of 10 CFR 50.49. Under such circumstances, the licensee clearly should have known before the deadline that the seal configuration was not qualified.

As described above, even the licensee's after-the-fact analysis failed to demonstrate qualification. Accordingly, this violation does not fall within the Modified Policy's exception for violations not sufficiently significant to warrant assessment of civil penalties. Failure to demonstrate the qualification of the Chico A/Raychem seal configuration is clearly a significant violation in accordance with the NRC staff's position detailed earlier in this Appendix.

In its response APCo cited a number of violations issued by the NRC staff related to "seal qualification" problems in an attempt to show that the general position of the NRC staff on such problems was that they are of lesser significance. Consequently, the licensee argued that the severity level of the problem at FNP should accordingly be reduced. The NRC staff has reviewed the cited violations and concluded that while it is true that all the violations deal with "seal qualification" problems, the similarities end there. In at least one of the cases (Callaway) the seal in question was only one of two seal mechanisms that existed in that particular configuration. Clearly, in such a case the lack of qualification of one of two seals is less significant than the

lack of qualification of the single Chico A/Raychem configuration at FNP. In short, the licensee has failed to demonstrate, beyond stating that all the cited violations are "seal qualification" problems, how those issues are directly applicable to the FNP violation. Further, the NRC staff, based on the facts of the individual cases, has taken other escalated enforcement actions under the Modified Policy and issued proposed civil penalties for "seal qualification" violations. However, it should be noted that those actions were taken subsequent to issuance of the Notice in this case.

Restatement of Violations I.C.1, I.C.2, I.C.3, and I.C.4. C. 10 CFR 50.49 (f) and (j), respectively, require in part that (1) each item of electric equipment important to safety shall be qualified by testing of, or experience with, identical or similar equipment, and the qualification shall include a supporting analysis to show the equipment to be qualified is acceptable, and (2) a record of the qualification of the electric equipment shall be maintained in an auditable form to permit verification that the required equipment is qualified and that the equipment meets the specified performance requirements under postulated environmental conditions.

Contrary to the above, from November 30, 1985, until the time of the inspection which was completed on November 20, 1987 (September 18, 1987 for #4.):

1. The APCo EQ files did not document qualification of several Limitorque valve operators in that the plant equipment was not identical in design and material construction to the qualification test specimen and deviations were not adequately evaluated as part of the qualification documentation. Specifically, in one or more of the operators, unqualified or mixed grease was used in the gear compartment, T-drains were missing, motor leads had unqualified splices, terminal blocks were unidentified and unqualified, and a limit switch with an aluminum housing, which does not meet environmental qualification standards, was used inside containment (Valve No. MOV3441D).

2. The APCo EQ files did not document qualification of the cable entrance seals for the Target Rock head vent solenoid valves.

3. APCo found wide range and narrow range containment sump level transmitters, on both units, in a configuration for which existing test data did not demonstrate qualification. Specifically, one or more of the GEMS type level transmitters did not contain the required silicone oil in the housing, and/or wires were terminated using an unqualified V-type tape splice configuration.

4. APCo did not have documentation in a file to demonstrate qualification of Premium RB grease for use on fan motors inside containment and room coolers outside containment.

Attachment 1, Section III.C. and Attachment 2, Section V.D. Alleged Violation Relating to Limitorque Valve Operators, Target Rock Solenoid Valves, Sump Level Transmitters, and Grease (Alleged Violations I.C.1, I.C.2, I.C.3, and I.C.4)

Attachment 2, Section V.D.1: Limitorque Valve Operators (Alleged Violation I.C.1)

Attachment 2, Section V.D.2: Target Rock Cable Entrance Seals (Alleged Violation I.C.2)

Attachment 2, Section V.D.3: Containment Sump Level Transmitters (Alleged Violation I.C.3)

Attachment 2, Section V.D.4: Premium RB Grease on Fan Motors (Alleged Violation I.C.4)

Violation I.C.1

The licensee responded by addressing the specifics stated in the Notice. By responding in this manner, the licensee denied that there was a violation of 10 CFR 50.49 as stated in Violation I.C.1. for Limitorque operators because of unqualified or mixed grease, T-drains, and unqualified splices. The licensee admitted that the examples regarding terminal blocks and the aluminum limit switch housing existed; however, it contended that these examples do not warrant imposition of a civil penalty under the Modified Policy.

The licensee contended that grease is not within the scope of 10 CFR 50.49. Specifically, the licensee argued that grease is not electrical equipment and, therefore, need not be qualified. The licensee also argued that its consultant demonstrated the qualification of mixed grease on June 25, 1986. The licensee argued that no enforcement action should be taken ". . . since there has been no explicit guidance, applicable to APCo, which states that grease or other lubricants should be considered in equipment qualification." Accordingly, the licensee contended it should not clearly have known that grease is electrical equipment that must be qualified. The licensee also contended that this issue was not of sufficient safety significance to impose a civil penalty under the Modified Policy. The licensee supported this last argument with the analysis provided by the outside consultant.

The licensee contended that the Limitorque test reports, along with engineering judgment, were adequate to demonstrate qualification of the valve operators without the T-drains. The licensee stated that the test reports in combination with engineering judgment established qualification and that engineering judgment does not need to be documented.

The licensee once again argued that the NRC staff gave no basis in the Notice why the licensee clearly should have known before the deadline that Limitorque operators were not qualified. The licensee contended further that the NRC staff did not require detailed walkdowns before the deadline and that the first real notice of the problem was IN 86–03, which the NRC staff issued after the deadline. The licensee also argued that if the lack of T-drains constitutes a violation, then it is not of sufficient safety significance to impose a civil penalty under the Modified Policy.

The licensee stated that the argument for the tape splices is addressed by the response to the alleged violations relating to V-type electrical splices.

While admitting the examples of unqualified terminal blocks and an aluminum limit switch housing, the licensee contended that there is no requirement to disassemble all equipment and identify all subcomponent parts, and that disassembly would have been required to identify these components. With respect to terminal blocks, the licensee asserted that IN 83–72 was insufficient to constitute clear notice of a problem, and that Limitorque supplied the operators directly, so that no third party could make improper modifications. Moreover, the licensee alleged that the unqualified terminal blocks and aluminum housing were isolated incidents which the NRC staff could not reasonably expect the licensee to find. With respect to the terminal blocks, the licensee stated that the Notice gives no reason why the licensee clearly should have known the blocks were unqualified and that the NRC staff gave tacit approval to the APCo's qualification of terminal blocks in Limitorque operators. The licensee characterized the discovery of the aluminum housing as an unforeseeable event. APCo also argued that it informed the NRC staff during the inspection that the operator with the aluminum housing did not need to be on the master list, and, under the Modified Policy, the violation is insufficiently significant to warrant a civil penalty.

Violation I.C.2

The licensee denied that the lack of qualified cable entrance seals constitutes a violation of 10 CFR 50.49. The licensee contended that the valves are designed to operate in conditions which are beyond those of design basis accidents according to 10 CFR 50.44(c)(3)(iii) and need not be qualified under 10 CFR 50.49. Moreover, the licensee argued that it stated this position in its letter to the NRC staff dated February 24, 1984, and that the staff tacitly accepted this position in its SER dated December 13, 1984. The licensee also stated that the valves were qualified with or without cable entrance seals. The licensee contended that the condition is not of sufficient safety significance to impose a civil penalty under the Modified Policy. The licensee argued that the NRC staff issued a Severity Level IV violation to the Union Electric Company for an identical violation at the Callaway Plant.

Violation I.C.3

The licensee denied that, even though four of the GEMS level transmitters were found without the required level of silicone fluid, this is a violation of 10 CFR 50.49 (f) and (j). Insofar as the NRC staff asserts the presence of unqualified V-type tape splices, the licensee referred to arguments made with respect to Violation I.A.1. The licensee asserted that any violation resulting from the condition of the containment sump level transmitters was not of 10 CFR 50.49, but some other requirement. APCo further argued that the fluid level in two of the four transmitters was only one inch low, and, therefore, posed no significant safety concern. APCo acknowledged that qualification of the transmitters with low silicone fluid was not addressed by test data available on November 30, 1985, but that two of the four transmitters were qualified even with the low fluid level. APCo further argued that the transmitters' qualification status was undetermined, and none of them were shown to be unqualified. Should the NRC apply 10 CFR 50.49 to the transmitters, APCo conceded a violation of 10 CFR 50.49(j). The licensee contended that it should not have clearly known of the violation by the deadline because it recognized the need to qualify the transmitters, maintained documentation to do so, and installed them and verified installation according to applicable instructions and normal procedure. APCo argued further that no walkdowns were required prior to the deadline, and that any walkdowns would have required opening the transmitters to inspect the silicon fluid level. The licensee claimed that the violation is not of sufficient safety significance to impose a civil penalty under the Modified Policy. The licensee contended that a civil penalty is not warranted because Bechtel analyzed the two transmitters with slightly low silicon levels and determined that qualification was not materially affected, and that the NRC staff was informed of this at the enforcement conference in March 1988, and in writing on May 27, 1988. APCo further contended that there would be no adverse safety consequences if the transmitters did not function.

Violation I.C.4

As discussed above in Violation I.C.1, the licensee contended that grease is not an item of electrical equipment as defined in 10 CFR 50.49(b). The licensee argued that a Texaco evaluation demonstrated reasonable assurance that the Premium RB Grease would not adversely affect the qualification of the motors and coolers. Further, the licensee again claimed that it should not have clearly known that 10 CFR 50.49 required it to qualify grease because (a) grease is not electrical equipment, (b) vendor information showed that the grease was acceptable for use on the motors in question, (c) APCo stated the grease was inspected on receipt to assure it was in conformance with specifications, (d) the NRC staff's SER accepted APCo's master list that did not include lubricants, and (e) APCo is unaware of any other licensee that listed grease as electrical equipment before the deadline. Because APCo and Texaco concluded that tests would show the grease acceptable, and expected testing was to be complete by December 1988, APCo concluded that the violation is not of sufficient safety significance to impose a civil penalty under the Modified Policy.

NRC Staff's Evaluation of Licensee's Response in Attachment 1, Section III.C and Attachment 2, Section V.D

Violation I.C.1.a: Unqualified or Mixed Grease: Lubricants are an integral part of motors and motor operated valves. They are subject to degradation as a result of exposure to radiation, temperature, aging, and humidity. The issue concerning this violation is whether the Limitorque motor operators are qualified when used with grease different than that used when those operators were tested in a simulated harsh environment. 10 CFR 50.49(f) requires that each item of electric equipment important to safety shall be qualified by testing of, or experience with, identical or similar equipment, and the qualification shall include a supporting analysis to show the equipment to be qualified is acceptable. Additionally, the DOR Guidelines state that the tested specimen should be the same as that being qualified and should be of identical design and material construction.

In the case of Limitorque motor operators, the licensee's EQ program did not evaluate the significance of using a different grease from that which was tested, nor the mixing of different soap bases. The Limitorque lubrication data form and other Limitorque information state which lubricants the licensee could use so that the operators would be qualified for use inside containment and specifically warned that lubricants of different soap bases should not be mixed. Material construction of the tested specimen differed from that installed. Therefore, the licensee did not have qualified motors and motor operators in that they were lubricated with greases other than that specified by the vendor and the licensee did not have documentation of testing or analysis to support the types of grease or mixed grease used. Because vendor documentation clearly specified the grease used in testing the motor operators, the licensee clearly should have known that using different grease without analysis or further testing would result in the operators not being qualified as installed. The electrical equipment the licensee clearly should have known was not qualified (because it was lubricated with the wrong grease) included motors and motor operators specified in the Notice.

The licensee provided an analysis which concluded that the mixing of the greases was not a significant technical problem in this case, and the NRC staff does not disagree with the conclusion for the particular mixture that was found. However, the NRC staff concludes that there was a violation and that it was significant. That determination was made based on three factors: (1) the analysis was dated June 25, 1988, after-the-fact; (2) some grease combinations have been demonstrated as incompatible; (3) the analysis was substantial as evidenced by the use of an outside consultant to determine the acceptability of the mixture. (As discussed earlier, the licensee's definition of "unqualified" is incorrect and safety significance is not determined by subsequent analysis.) Moreover, the licensee had to perform substantial analysis to qualify the operators with grease other than as specified by the vendor, and did not

satisfy the Modified Policy's criterion for finding a violation insufficiently significant to warrant a civil penalty. Therefore, the violation stands as stated.

Violation I.C.1.b: T-Drains: The NRC staff disagrees with the licensee's position that T-drains are not required for qualification. For example, Limitorque test report B0058 (See Appendix B, Reference 4) states that T-drains be installed to accommodate the extreme temperature and pressures of a design basis event environment. As stated earlier in the response to Attachment 1, section II.B, it is the position of the NRC staff that engineering judgment must be documented in order to demonstrate qualification in accordance with 10 CFR 50.49. Therefore, this violation stands as stated. The licensee clearly should have known that the operators were unqualified because it knew of Limitorque test report B0058, which as described, which requires that installation of T-drains. APCo's argument that it qualified motor operators in 1986 with undocumented engineering judgment shortly after it discovered that T-drains were missing, and that this renders any violation insufficiently significant to warrant a civil penalty under the Modified Policy, fails because: APCo's undocumented engineering judgment could not qualify the operators, as described in the answer to Attachment II, section V.A.4, so the exception in the Modified Policy does not apply. Accordingly, this was a signification violation.

The NRC staff acknowledges that the issue of motor operator T-drains has been handled differently at different plants. However, the NRC staff does not find such a situation inconsistent with the Modified Policy, as the licensee implied. Contrary to the licensee's assertion, the issue of motor operator T-drains is not the exact same issue at each plant. Numerous factors went into the NRC staff's case-by-case determination of the severity of violations involving motor operator T-drains. Factors considered in making such decisions included the quality of the documentation supporting qualification that was available at the time of the inspection or shortly thereafter, the plant LOCA profile, the type of motor used in the operator, and the operator orientation. Whether the Limitorque report qualifying a motor operator without a T-drain can be used to qualify operators at a particular plant is implicit in considering these factors. A plant with a LOCA profile like that in the test report, using the proper type of motor in the proper orientation would likely be able to demonstrate similarity. Application of these factors in other cases distinguish them from this case.

Violation I.C.1.c: Unqualified Splices: NRC staff's position on V-type tape splices is addressed in the response to Attachment 1, section III.A. (See supra, pp. 17–19).

Violations I.C.1.d and e: Terminal Blocks and Aluminum Limit Switch Housing: The licensee admitted that these violations existed. NRC staff's position on the nature and scope of walkdowns is discussed in the response to Attachment 2, section V.A.2 (See supra, pp. 10–11). That discussion forms the general position, that given the information available from the NRC staff and other sources, as discussed below, the licensee should have performed walkdowns or other detailed investigations of the problems identified by IN 83–72, and had it done so, clearly should have known of the violations.

With regard to the limit switch housing, the licensee clearly should have known of the violation because the test report did not allow the use of aluminum limit switch housings. The licensee's argument that because proper and NRC-accepted procurement inspection procedures were employed, it did not have a reasonable opportunity to detect the use of the aluminum housing is not persuasive. Given that only a single aluminum housing was found, and given that APCo's records for the operator do not show that environmental qualification was considered and assured, it is far more likely that the housing was installed after the operator was in the plant rather than prior to receipt of the operator at FNP. Therefore, it is more likely that the problem was one of the licensee failing to maintain EQ rather than a receipt inspection problem. The NRC staff reaches that conclusion because there have been few, if any other, instances in which such housings have been improperly supplied by motor operator vendors for use in EQ applications. In sum, because its equipment records did not show that the licensee had maintained its equipment in accordance with environmental qualification requirements, the licensee clearly should have known of this violation.

The NRC staff acknowledges that the licensee did inform the NRC inspectors that the operator in question was not required to be on the master list. However, the licensee not only made that argument after the fact but based the argument on placing administrative controls on the valve to keep it in its safety position. Such controls may have formed an adequate basis for removing the valve from the list at the time of the inspection but since the controls were not in place prior to the deadline the NRC staff rejects the licensee's arguments.

As discussed above for V-type splices (See supra, p. 17), the NRC staff's SER issued December 13, 1984 did not tacitly approve APCo's qualification of terminal blocks in Limitorque operators.

The NRC staff acknowledges that identification of problems with terminal blocks in motor operators was handled differently at different plants. The issue was handled on a case-by-case basis considering such factors as whether the terminal blocks were used in motor operators inside or outside containment, whether they were used in control or instrument applications, and the quality of the documentation supporting qualification available at the time of the inspection. After reviewing the specific violation at River Bend referenced by the licensee in its response, the NRC staff concludes that, in retrospect, the inspection report for River Bend (Inspection Report 50–458/87–21) probably should have more fully explained the NRC staff's rationale for reaching the conclusion that the violation was most appropriately categorized at Severity Level IV. Briefly, the violation at River Bend was categorized at Severity Level IV based on two factors, location (outside containment) and application (control).

With regard to the licensee's argument concerning its response to Information Notice (IN) 83–72, the NRC staff concludes that relying on 1980 information to respond to a 1983 issue which calls into question the applicability of that earlier information (see Attachment 1 to IN 83–72, page 16 of 16, #6) is improper. The thrust of the information provided by the IN was that third party involvement after the operators had been shipped by Limitorque and improperly reviewed modifications after installation were likely causes of the existence of unqualified terminal blocks in the motor operators. Therefore, to do no physical inspections at FNP was unreasonable given the information provided.

Violaton I.C.2: Target Rock Cable Entrance Seals: The NRC staff disagrees with the licensee that seals are not required for qualification of Target Rock Solenoid Operated Valves (SOV). The head vent valves were required to be installed by 10 CFR 50.44. This regulation requires that these valves be operable post-LOCA (10 CFR 50.44(c)(3)(iii)). In order to be operable

post-LOCA, they must be environmentally qualified. Even accepting the licensee's argument, the SOVs form part of the reactor coolant pressure boundary, as stated in 10 CFR 50.44(c)(3)(iii), and are defined by 10 CFR 50.49(b)(1)(i) as important to safety. They must then be qualified for a design basis accident.

The NRC staff's SER approved only the licensee's approach and schedule for completing the full environmental qualification of the Target Rock solenoid valves. At no time did the NRC staff tacitly approve the licensee's claim that the reactor vessel head vent valves did not have to be environmentally qualified to the rule. The NRC staff position on TMI Lessons Learned Equipment, as stated in Supplement 2 to IEB 79–01B, has always been that this equipment is subject to the same requirements as other safety-related equipment. This position was also reiterated in the TER (at page 2–3 and 2–4) as further discussed in Supplement 3 of IEB 79–01B. The NRC staff clearly stated in this supplement as it related to TMI Lessons Learned Equipment that, ". . . , no change has occurred in staff position regarding the scope of the 79–01B Supplement 2 review." The licensee's statements as it related to the scope of the 50.49 review were always related in the context of a completion schedule for the full qualification of the solenoid valves. In its letter of February 29, 1984, (See Appendix B, Reference 8) to the NRC staff, the licensee stated:

> The qualification report [for the Target Rock SOV's] is currently under development by Westinghouse with a scheduled completion in 1984. APCo has reviewed the draft qualification report and determined that these solenoids are qualified for use in the FNP containment. APCo will review the final report when issued to ensure qualification is maintained.

The licensee went on to argue that the SOV's were not required to be qualified. However, given the licensee's statements that the SOV's were qualified, there was no reason for the NRC staff to dispute the licensee's assertion that the equipment was not required to be qualified. Therefore, it was not necessary for the NRC staff to respond to the assertion, and the staff's silence on the matter cannot be construed as tacit approval of the licensee's position.

The licensee's response to the Notice mentioned a 1984 test report that has not been provided to NRC staff for evaluation. Therefore, there is no basis for the NRC staff to conclude that the test report would demonstrate that the equipment was suitable for its application. Further, that test report was not in the licensee's files at the time of the inspection. The test report that was in the licensee's files specified that a qualified entrance seal was required, but such a seal was not installed. By not presenting the new information during or shortly after the inspection, or even at the enforcement conference held months after the inspection, APCo did not satisfy the Modified Policy's criterion for finding a violation insufficiently significant to warrant a civil penalty by allowing for further documentation during or shortly after the inspection. Moreover, this new test report does not qualify the seals for the valves because it was submitted long after the deadline. (See discussion of APCo's definition of "qualified", supra, pp. 12–13.)

With regard to the clearly should have known test, factor one was considered applicable because the licensee's test report required a qualified seal to be installed on the valves. This factor alone was sufficient to consider escalated enforcement since only one factor is required to be met. Therefore, this violation stands as stated.

The NRC staff's position relating to seal qualification issues, including Target Rock valves, is addressed in the response to the Chico A/Raychem violations (See supra pp. 26–29).

Violation I.C.3: Gems Sump Level Transmitters: With respect to V-type splices on the transmitters, the NRC staff responds with the same analysis made for Violation I.A.1 (See supra, at pp. 17–19). Although the licensee argued that these facts formed the basis for citation of a violation other than of 10 CFR 50.49, the NRC staff identifies no reason why it could not issue a citation for violation of 10 CFR 50.49 as well. The licensee's claim that a citation for violation of 10 CFR 50.49 is inappropriate is simply not supported by the facts. APCo admitted this violation by stating that, by the deadline, it had no data on GEMS level indicator performance with low silicone levels. APCo contended, however, that two of the transmitters were qualified based on its definition of the term that the NRC staff rejected above (See supra, pp 12–13). APCo continued by stating that the transmitters were not unqualified, and, therefore, this was not a violation. Such an interpretation of the regulation would require the NRC staff to demonstrate the equipment would fail rather than requiring the licensee to assure it would not. 10 CFR 50.49 requires licensees to qualify electrical equipment important to safety for harsh environments and maintain records of qualification, and this requirement clearly applies to the GEMS sump level transmitters. The NRC staff need not prove that equipment will fail in a harsh environment to show a violation of 10 CFR 50.49. Moreover, the licensee concedes a violation of 10 CFR 50.49(j). Accordingly, APCo violated 10 CFR 50.49 (f) and (j) by failing to qualify the GEMS level transmitters by the deadline.

The licensee claimed that it should not have clearly known of this violation. However, vendor test reports indicated that the silicon fluid was required for the level transmitters to remain qualified. The information would have led an engineer knowledgeable in the requirements of 10 CFR 50.49 to reach that conclusion, and to verify that the level transmitter fluid levels were correct.

The second factor of the Modified Policy applied because the licensee's equipment records did not demonstrate that the installed configuration matched the tested configuration. Moreover, the licensee did not perform adequate field walkdowns or other verifications to assure that the installed configuration was the same as the tested configuration. NRC staff's position on the nature scope of walkdowns is discussed in response to Attachment 2, section V.A.2 (See supra, pp. 10–11). Additionally, the licensee did not ensure adequate maintenance controls were implemented to maintain the qualification status of the level transmitters. With regard to identification of this violation, the NRC staff agrees that the licensee found the deficient condition. However, the identification resulted from questioning by an NRC inspector and therefore was not considered as independently identified by the licensee, according to the Modified Policy's definition.

In responding to this issue APCo referred to the fact that the NRC staff had subsequently classified a similar violation to be of lesser significance at another Region II plant. The NRC staff acknowledges that a similar violation was considered of lower severity. However, given the specifics of that case such a determination was appropriate. Specifically, in that case the licensee was able to demonstrate that the junction box of concern would not have been subjected to a submerged environment as previously assumed. The analysis performed for APCo by Bechtel was performed after the deadline and consistent with the NRC staff's position (See supra pp. 12–13) such analysis could not demonstrate qualification of the transmitter prior to the deadline.

Violation I.C.4: Premium RB Grease: The importance of grease in equipment qualification is discussed in the

response to Violation I.C.1.a. Given that the vendor specfically identified the grease used on the fan motors and room coolers, the licensee clearly should have known that those components would not be qualified with different greases. The documentation that is claimed to be from the licensee's maintenance files (not the EQ qualification file) was not presented during the inspections, nor at the enforcement conference held months after the inspection. Further, that information alone does not support the qualification of the fan motors and room coolers lubricated with Premium RB grease and located in a harsh environment. Specifically, although a reference to operating temperature range for the grease was provided there was no documentation to support qualification in a full LOCA environment. As demonstrated by the licensee's response, grease testing was not completed as of November 14, 1988. The length of time necessary to establish qualification of these components with different greases clearly falls outside the exception given in the Modified Policy. Accordingly, this violation is sufficiently significant to warrant assessment of a civil penalty. Therefore, this violation stands as stated.

The failure to adequately demonstrate the qualification of each of the items discussed above is a significant violation in accordance with the NRC staff's position detailed earlier in this Appendix.

Attachment 1, Section II.D and Attachment 2, Section V.G: Mitigation, Not Escalation, of the Base Civil Penalty Is Appropriate. Attachment 2, Section V.G: The Staff's Assessment of the Mitigation Factors Was Flawed

The licensee denied that a violation occurred and contended that escalated enforcement is not warranted because the alleged deficiencies are not of sufficient safety significance to impose a civil penalty under the Modified Policy. However, if the violations are sustained, the licensee argued that it is entitled to full mitigation of the base civil penalty. APCo alleged that the NRC staff incorrectly applied the escalation and mitigation factors in the Modified Policy.

NRC Staff's Evaluation of Licensee's Response in Attachment 1, Section II.D and Attachment 2, Section V.G

Identification and Reporting—Of the eight violations cited in the Notice, APCo independently identified the deficiencies that formed the basis for five violations. Of the remaining violations, the NRC staff identified one (terminal blocks in instrument circuit), and APCo, in response to inquiries from NRC inspectors, identified two violations (GEMS level transmitters and Chico A/Raychem seal configuration). Reduction of the base civil penalty by 50% is warranted only if a licensee identifies the full scope of virtually all the violations. In view of the circumstances described above, 25% mitigation of the base civil penalty is more appropriate in this case than the full 50% mitigation.

The NRC staff does not accept the licensee's argument that some type of notice after the November 30, 1985 deadline is a necessary condition for considering NRC staff identification of deficiencies under this factor. The licensee has a continuing obligation to assure compliance with NRC requirements. If information became available after the deadline to aid in identifying a deficiency and the licensee failed to do so, that would certainly contribute to escalation of the civil penalty, because that would reflect the failure to take advantage of an opportunity to identify and correct the deficiency. However, escalation or less than full mitigation of the civil penalty can also be based on the number and type of unqualified components identified by the NRC staff. NRC inspections are performed on an audit basis, with a relatively small number of inspectors who focus on a small percentage of the plant components to confirm that regulatory requirements are met. Therefore, given the limited scope of NRC inspections, each item identified is of added significance and escalation or less than full mitigation is appropriate. In this case, the same reasoning applies for the two licensee identified violations that resulted from inquiries by NRC inspectors.

The NRC staff recognizes that it could not perform all the inspections at approximately the same time. However, there was an extended period of time before the deadline for licensees to conduct programs for self-identification and therefore the advantage one licensee may have gained by being inspected a few months or a year after another is really inconsequential. Further, the issue of inspection timing is not unique to the Modified Policy issues but is inherent in much of the NRC inspection program because of limited inspection resources.

Best Efforts—The NRC staff agrees with APCo that licensees should be encouraged to address emerging issues. However, the NRC staff does not view the EQ issues discussed in the Notice or the whole area of equipment procurement as emerging issues. The need to ensure that components of the proper type and qualification are procured has been and continues to be an essential part of any nuclear safety-related program including the plant EQ program. Because EQ is not solely an engineering function, the NRC staff would expect that a licensee demonstrating best efforts to have undertaken an EQ review of procurement records before the deadline to assure that qualification of equipment had been maintained despite part replacement and equipment repair. However, APCo's in-depth review of procurement records did not occur until after the deadline and the NRC staff concludes that little at all was done in this area before the deadline.

The NRC staff's technical positions on the issues of equipment walkdowns and qualification of equipment using lubricants other than as tested are presented in other portions of this Appendix. In the context of the factor of best efforts in those two areas, it is the NRC staff's position that APCo's efforts fall well short of the standards which reasonably could be deemed to constitute best efforts in attempting to comply with 10 CFR 50.49. For example, when APCo's documentation indicated a problem with respect to qualification, its failure to perform walkdowns or other appropriate investigation demonstrate a failure to exert its best efforts to comply with 10 CFR 50.49. This conclusion is supported by many of the statements summarizing APCo's own evaluation of its EQ program made in Enclosure 1 to the NRC's Enforcement Conference Summary dated April 13, 1988 (See Appendix B, Reference 5).

The escalation of the base civil penalty for a lack of best efforts does not suggest that APCo made no efforts to comply with EQ requirements. The NRC staff recognizes the programmatic efforts made by APCo in the 1979–1985 time frame. However, such efforts do not single out APCo over other licensees who also were assessed a civil penalty despite devoting significant efforts to establish an EQ program. Escalation for best efforts does not rest on lack of resources devoted to the equipment qualification program, but on the basic deficiencies in that program. The efforts discussed in the licensee's response also do not consider program implementation and verification efforts. Implementation and verification of a proper EQ program rests with the licensee. Based upon the identified deficiencies in the program, even though in some other areas a satisfactory EQ program was formulated for the FNP units, best efforts were not made in general in the areas of

implementation and verification and therefore escalation of the civil penalty was appropriate. Accordingly, 50% escalation of the base civil penalty based on this factor is appropriate.

Corrective actions. When considering a licensee's actions to correct deficiencies under this factor the NRC staff is specifically focusing on the licensee's corrective actions for the identified violations. The overall programmatic corrective actions the licensee took before identification of the violations and prior to the deadline were considered as part of the licensee's best efforts. This application of the corrective actions factor under the Modified Policy is consistent with its application under the General Enforcement Policy.

Given that most of the deficiencies that formed the basis of the August 15, 1988 Notice were contained in the February 4, 1988 inspection report, it is clear that the comments referenced by the licensee about "significant improvements," which were also contained in that report, were not made with regard to corrective actions taken to correct the deficiencies at issue. The violations along with the above referenced comment wre concurrently identified to the licensee and therefore the NRC inspectors were not commenting on the corrective actions for violations which were just being transmitted to the licensee. The NRC inspection of the licensee's long-term corrective actions for the violations is discussed in NRC Inspection Report 50–348 and 50–349/89–23 issued October 31, 1989. Based on both of the above points, the "significant improvements" discussed in the earlier report do not warrant consideration under this factor. However, as indicated above, any of those improvements made prior to the deadline were taken into consideration when considering the best efforts factor.

Regarding the licensee's comments on its corrective actions for the fan motor problem, the NRC staff concludes that a number of comments need to be made to clarify the licensee's submittal. First, the licensee's inclusion, in its reply to the Notice, of a statement from the Systematic Assessment of Licensee Performance (SALP) report might leave the impression that the matter was not of significant concern to the NRC staff and more importantly that the NRC staff in making the statement had taken a final position on the appropriateness of the licensee's corrective actions. Neither of those conclusions is correct. The sentence in the SALP report that follows the one cited by the licensee stated that escalated enforcement was under consideration, making it clear that the matter was both of significant concern and still being evaluated. The NRC staff will not comment on APCo's recollection of statements, regarding the licensee's handling of the fan motor issue, supposedly made at the July 7, 1988 SALP meeting, except to say that the NRC staff's documented position as contained in the SALP report does not support the licensee's assertion that the NRC staff found its action acceptable. Second, because the NRC staff had continuing concerns over the fan motor V-type splice issue at FNP, a meeting was held in Bethesda, MD on September 24, 1987. That meeting was followed by a Confirmatory Action Letter dated October 6, 1987 which confirmed various followup actions on the part of the licensee in the area of EQ including further specific actions relating to the V-type splices. Clearly, such a course of action on the part of the NRC staff demonstrates a concern with the licensee's actions to satisfactorily resolve this issue.

With specific regard to the handling of replacement of the fan motor splices, the licensee admits in its response to the Notice that a JCO, as called for in GL 86–15, was never completed. The licensee claims that the need for the JCO was unnecessary given the fact that the splices were replaced prior to completion of the JCO. The NRC staff still maintains that the licensee's course of action was non-conservative. Absent a JCO, the licensee had no documented or approved basis to justify the continued opertion of a system required by the plant Technical Specifications and therefore, had no documented basis for the continued operation of Unit 2 that occurred during splice replacement. Clearly upon discovery of the improper splices on Unit 1, the licensee had a reasonable basis to suspect a problem on Unit 2. The delay of nine days in taking action on that unit without a documented basis was non-conservative. As documented elsewhere in this Appendix, the NRC staff does not accept undocumented engineering judgment or after-the-fact analysis or testing as a sufficient basis for continued operation and that is what the licensee in fact relied on. In claiming that it went beyond the Generic Letter recommendation, that licensees take immediate steps to establish a plan with reasonable schedule to correct the deficiency, the licensee demonstrates a lack of understanding of the NRC staff's concern. Not only does a JCO justify long term continued operation should the licensee choose such a course of action, but it also justifies short term continued operation (the time it takes to effect corrective actions). Prior to any corrective actions, either a documented and approved basis must be provided for continued operation (a JCO) or the licensee must comply with the applicable requirement, which in this case was the Technical Specification. The mere fact that the licensee plans to take prompt corrective action does not remove the obligation to have a documented and approved basis for operating during the time it will take to effect the necessary actions.

In summary, the NRC staff finds that the licensee's arguments for mitigation under this factor are either not applicable or do not demonstrate a basis for mitigation. Further, in at least one significant instance (V-type splices), the licensee's corrective actions were clearly inappropriate and thus partial (25%) escalation of the base civil penalty is warranted.

Conclusion

Based upon the above considerations, no additional information has been provided that would cause the NRC staff to either withdraw a violation or reconsider its categorization. The violations affect a sufficient number of systems and components that are important to safety to warrant classification of this EQ problem as a Category A problem. Therefore, the NRC staff adheres to its classification of the violations as a Category A problem under the Modified Policy, and concludes that the proposed civil penalty of $450,000 should be imposed.

Restatement of Violation II

10 CFR part 50, appendix B, Criterion I, Organization, requires that persons and organizations performing quality assurance functions shall have sufficient authority and organizational freedom to identify quality problems, to recommend solutions, and to verify implementation of solutions. 10 CFR part 50, appendix B, Criterion XVI, Corrective Action further requires that measures shall be established to assure conditions adverse to quality are promptly corrected. The accepted QA progrm (FNP–FSAR–17) section 17.2.1.2, which in part implements 10 CFR part 50, appendix B, as required by 10 CFR 50.54(a), states that Safety Audit and Engineering Review (SAER) under the direction of the manager (MSAER), has been established to provide a comprehensive independent audit program of safety-related activities to verify that such activities are in compliance with the Operational Quality Assurance Program (OQAP). FNP–FSAR–17 further states

that the Supervisor-SAER and his staff stationed at FNP shall conduct the audit program, and he has the authority to identify problems, recommend solutions, and verify corrective actions.

Section 17.2.16 states that an administrative procedure has been written to assure that conditions adverse to quality are promptly identified and corrected.

Contrary to the above, SAER is not ensuring effective execution of the quality assurance program in that conditions adverse to quality associated with the EQ program have not been promptly corrected. The following Corrective Action Request (CAR) describe deficiencies identified by SAER for which corrective actions had, at the time of the inspections, not yet been completed.

Car No.	Date identified	Estimated completion date
830	Nov. 1983	Mar. 03, 1988.
1251	Oct. 1986	Mar. 31, 1988.

This is a Severity Level IV violation (10 CFR 2, appendix C, supplement I).

Attachment 1, Section III.D: Alleged Violation Relating to the Quality Assurance Program for Safety-Related Activities (Alleged Violation II.)

Attachment 2, Section V.E: Alleged Violations Under NOV Section III

The licensee denies the alleged violation. The licensee contends that CAR 830, prepared December 29, 1983, was to address only instruction books and vendor drawings for EQ equipment. The licensee expanded the scope to cover subsequent vendor manual revisions. As items were closed, the licensee identified new items as a result of the issuance of GL 83–28. These new items, the licensee claimed, were the cause of the completion date being revised. The licensee contended that the length of time that elapsed was appropriate.

The licensee further contended that the actions taken to close CAR 1251 were prompt. The licensee stated that the completion of this item was tied to the evaluation performed for NRC Bulletin 85–03.

The licensee argued that a review of the time period in which these CARs were open, along with consideration of the surrounding circumstances, would not indicate a deficiency in the execution of its quality assurance program.

NRC's Evaluation of Licensee's Response in Attachment 1, Section III.D

CAR 830 was initially prepared on December 29, 1983, and identified a deficiency that involved failure of the design change program to identify vendor technical manuals and vendor drawings as requiring update upon implementation of a plant modification. The licensee's preventive maintenance program for EQ equipment required that appropriate vendor technical manuals be referenced for performance of preventive maintenance activities. Failure of the design program to identify vendor technical manuals and shop drawings that should have been updated resulted in the preventive maintenance program referencing incorrect vendor documents. The licensee claimed that completion of the CAR was delayed because of new issues created by GL 83–28.

The NRC staff will not discuss whether CAR 830, in its final expanded form was addressed in a timely manner because discussions with the licensee on GL 83–28 issues have continued for some time. However, the NRC staff maintains that the original concerns in CAR 830 were not addressed in a timely manner. In retrospect, the licensee should have issued a separate CAR to address the emerging issues rather than indefinitely extending the completion date for the corrective actions of the older issues. The NRC staff recognizes that some of the emerging GL 83–28 issues could affect the resolution of the earlier concerns. However, it was incumbent on the licensee, at a minimum, to have interim guidance in place to assure vendor information was properly referenced and updated for preventive maintenance procedures whose use was on going, while final resolution of all the emerging issues was being addressed.

The licensee stated that completion of CAR 1251 was delayed by the completion of the Limitorque evaluation conducted pursuant to NRC Bulletin 85–03. Since this CAR was closely related to the issues covered by NRC Bulletin 85–03, the NRC staff is withdrawing CAR 1251 as an example.

The violation will be modified in our records to reflect the deletion of the example dealing with CAR 1251.

Appendix B

References

1. Steven A. Varga, NRC, Letter to F.L. Clayton, Alabama Power Company, Subject: Safety Evaluation Report for Equipment Qualification of Safety-related Equipment Unit 1, NRC February 4, 1983
2. Steven A. Varga, NRC, Letter to F.L. Clayton, Alabama Power Company, Subject: Safety Evaluation Report for Equipment Qualification of Safety-related Equipment Unit 2, NRC February 4, 1983
3. Steven. A Varga, NRC, Letter to R.P. McDonald, Alabama Power Company, Subject: Safety Evaluations on Environmental Qualification of Electric Equipment at Farley Units 1 and 2, NRC December 13, 1984
4. Limitorque Test Report B0058, Limitorque Valve Actuator Qualification for Nuclear Power Station Service, January 11, 1980
5. J. Nelson Grace, NRC, Letter to R.P. McDonald, Alabama Power Company, Subject: Enforcement Conference Summary (NRC Inspection Report Nos. 50–348/87–30 and 50–364/87–30), NRC April 13, 1988
6. J.M. Taylor, NRC, Letter to Nuclear Utility Group on Equipment Qualification, Subject: Response to Group Provided Comments on GL 88–07, NRC February 13, 1989
7. F.L. Clayton, Jr., Letter to S.A. Varga, NRC, Subject: Joseph M. Farley Nuclear Plant—Unit 2, Environmental Qualification of Safety Related Electrical Equipment, APCO June 23, 1982
8. F.L. Clayton, Jr., Letter to S.A. Varga, NRC, Subject: Joseph M. Farley Nuclear Plant—Units 1 and 2, Environmental Qualification, APCO February 29, 1984

[FR Doc. 90–20210 Filed 8–27–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–322

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1); Exemption

I

Long Island Lighting Company (the licensee) is the holder of Facility Operating License No. NPF–82 which authorizes operation of the Shoreham Nuclear Power Station (SNPS). The facility is a boiling water reactor located at licensee's site in Suffolk County, New York. It is currently defueled and the licensee, in its letter of January 12, 1990, committed not to place nuclear fuel back into the Shoreham reactor without prior NRC approval. By Confirmatory Order dated March 29, 1990, "the licensee is prohibited from placing any nuclear fuel into the Shoreham reactor vessel without prior approval from the NRC." This license provides, among other things, that it is subject to all rules, regulations and orders of the Commission now or hereafter in effect.

II

Pursuant to 10 CFR part 26, each nuclear power reactor licensee, shall implement a fitness for duty (FFD) program. Pursuant to 10 CFR 26.2, the provisions of the fitness for duty program must apply to all persons

granted unescorted access to protected areas, and to licensee, vendor, or contractor personnel required to physically report to a licensee's Technical Support Center (TSC) or Emergency Operations Facility (EOF) in accordance with licensee emergency plans and procedures. Pursuant to 10 CFR 26.24, the licensee shall implement a chemical testing program for those persons specified in 10 CFR 26.2. These requirements must be implemented by each licensee authorized to operate a nuclear power reactor no later than January 3, 1990.

III

The licensee prior to this change was required to fully comply with 10 CFR part 26. By letter dated March 15, 1990, the licensee requested a limited scope exemption of its FFD program to only those persons who have unescorted access to the Reactor Building, Primary Containment and Secondary Containment, Main Control Room, Relay Room, Battery Room C and the Central Alarm Station or to any other area, wherever located, which contains equipment available to support and maintain the continued safe storage or handling of spent fuel. The licensee states that with Shoreham in its present defueled condition the exemption to the FFD program to limit the scope to those persons who have unescorted access to any area that contains equipment necessary to support and maintain the continued safe storage or handling of spent fuel will not compromise the objectives of the FFD program nor will it endanger life or property. The NRC may grant an exemption from the requirements of the regulations, which pursuant to 10 CFR 26.6 are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

By letter dated March 15, 1990, the licensee contends that an exemption from the full requirements of 10 CFR part 26 while in the prolonged defueled condition is justified by the following:

1. Shoreham has been defueled and all fuel has been placed in the spent fuel storage pool.

2. Under the Settlement Agreement with the State of New York, LILCO is contractually prohibited from ever operating Shoreham.

3. Design basis accidents for Shoreham in a defueled condition are all associated with loss of water inventory in the spent fuel pool, fuel handling, or effluent releases.

4. Granting the exemption would have no impact on the common defense and security of the United States.

IV

Conforming to the full scope of the 10 CFR part 26 requirements will result in LILCO performing 300 chemical abuse tests, annually, that would not be required with a limited scope exemption.

The staff has reviewed the licensee's request for exemption and finds that requiring the licensee to comply with 10 CFR part 26 fitness for duty program by having all persons with unescorted access to be tested when the plant is defueled would not enhance the protection of the environment and would result in an expenditure of licensee resources not required for public health and safety.

The staff also concludes that issuance of this exemption will have no significant effect on the safety of the public or the plant.

The commission has determined that the issuance of this exemption will have no significant impact on the environment (55 FR 33968).

Accordingly, the Commission has determined that pursuant to 10 CFR 26.6 the exemption is authorized by law, will not endanger life or property, is consistent with the common defense and is otherwise in the public interest.

Therefore, the Commission hereby approves the following exemption:

The licensee is exempt from the full scope requirements of the fitness for duty program imposed by 10 CFR part 26 until such time that LILCO places nuclear fuel into the Shoreham reactor vessel, provided that the licensee include in the fitness for duty program all persons who have unescorted access to any area which contains equipment necessary to support and maintain the continued safety storage or handling of spent fuel.

The exemption is effective upon issuance.

Dated at Rockville, Maryland, this 21st day of August 1990.

For The Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-20211 Filed 8-27-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361 and 50-362]

Southern California Edison Co., et al. (San Onofre Nuclear Generating Station, Unit Nos. 2 and 3); Exemption

I

The Southern California Edison Company, San Diego Gas & Electric Company, The City of Anaheim, California, and The City of Riverside, California (the licensee) hold Facility Operating License Nos. NPF-10 and NPF-15, which authorize operation of the San Onofre Nuclear Generating Station, Unit Nos. 2 and 3 (the facilities). The licenses provide, among other things, that the facilities are subject to all rules, regulations and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect. These facilities are pressurized water reactors located in San Diego County, California.

II

Section (a) of 10 CFR 70.24, "Criticality Accident Requirements" requires that each licensee authorized to possess special nuclear material shall maintain in each area where such material is handled, used, or stored, an appropriated criticality monitoring system. In accordance with section (a)(1) of 10 CFR 70.24, coverage of all such areas at San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, shall be provided by two criticality detectors. However, exemptions may be authorized pursuant to 10 CFR 70.14, provided that the licensee has shown that good cause exists for the exemption, as allowed by 10 CFR 70.24(d). In particular, Regulatory Guide 8.12, revision 2, "Criticality Accident Alarm System," states that it is appropriate to request an exemption 10 CFR 70.24 if an evaluation determines that a potential for criticality does not exist, as for example where geometric spacing is used to prelude criticality.

By letter dated March 27, 1984, the licensee requested an exemption to the requirements of 10 CFR 70.24. This exemption was granted by the Commission by letter dated September 28, 1984. However, since the granting of the exemption in 1984, the San Onofre Unit 2 and 3 have been granted amendments (Unit 2 Amendment 87 and Unit 3 Amendment 77) to their Technical Specifications which allow an increase in the storage capacity of their spent fuel pools. As a result, the bases for the original exemption was changed by use of new high density storage racks in the spent fuel pool. (The bases for the September 28, 1984 exemption for the existing new fuel storage racks did not change.) As a result, by letter dated July 5, 1990, the licensee for the San Onofre Units 2 and 3 requested to revise the bases of the exemption for the San Onofre 2 and 3 spent fuel storage areas of the fuel handling building. Specifically, the licensees propose to continue to handle and store both irradiated and unirradiated fuel in the fuel handling building without having

the two criticality monitoring systems required by 10 CFR 70.24.

The bases for the current exemption is the potential for accidental criticality is precluded due to geometric spacing. The rationale for the requested exemption is the high density spent fuel storage racks. Under the amendments which granted an increase in the capacity of the spent fuel pools, it was recognized that criticality was precluded by the following: (1) Geometric spacing; (2) Boraflex panels inserted in the racks; (3) minimum boron concentration in the spent fuel pool of 1850 ppm per Technical Specification 3.9.13; and (4) controlled storage of low burnup fuel in Region II of the spent fuel racks as specified in Technical Specification 5.6.1. These additional measures to preclude criticality provide an acceptable basis to continue the exemption.

The licensee's current exemption is subject to the restriction that no more than one fuel assembly be outside an approved shipping container, storage rack, or the fuel transfer tube at any time. The licensee requests that the restriction to the existing exemption be revised. The licensee proposes to utilize the exemption provided that no more than one fuel assembly be outside an approved shipping container, storage rack, or the fuel transfer carriage at any time. However, two fuel assemblies may be in the fuel transfer carriage. The basis for allowing two fuel assemblies in the fuel transfer carriage is the potential for accidental criticality does not exist because of geometric spacing. The geometric spacing of the transfer carriage results in a 14.25 inch center-to-center spacing betwen two fuel assemblies. The 14.25 inch center-to-center spacing is conservative compared to the previous 12.75 inch center-to-center spacing in the old spent fuel storage racks, which was the basis for the original exemption. The transfer system water is also subject to boron concentration limits, which provides additional assurance that criticality would be precluded in the event of an accident. The proposed restriction would facilitate control element assembly transfers, neutron source transfers, efficient core offloads/fuel shuffles, and provide temporary setdown locations when fuel handling difficulties occur in the reactor vessel.

Based upon the information provided, there is reasonable assurance that irradiated or unirradiated fuel will be subcritical due to the use of geometric spacing, Boraflex panels, minimum boron concentration, and controlled storage in the spent fuel pools. In the new fuel pools, geometric spacing provides this assurance. Also, there is reasonable assurance that two fuel assemblies can be safely carried in the fuel transfer carriage. The special circumstances for granting an exemption to 10 CFR 70.24 are met because criticality is precluded with the present design configuration, Technical Specification controls, and the restriction placed upon the exemption. Therefore, based upon the revised bases stated above, the staff concludes that the licensee's reqeust for an exemption form the requirements of 10 CFR 70.24 with respect to irradiated or unirradiated fuel in the fuel handling building is acceptable and should be granted. This exemption is subject to the restriction that no more than one fuel assembly be outside an approved shipping container, storage rack, or the fuel transfer carriage at any time, although two fuel assemblies may be in the fuel transfer carriage.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 70.14, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest.

Accordingly, the Commission hereby grants an exemption as described in section II above from 10 CFR 70.24, "Criticality Accident Requirements," such that the licensee is exempt from providing two criticality detectors. This exemption is subject to the restriction that no more than one fuel assembly be outside an approved shipping container, storage rack, or the fuel transfer carriage at any time, although two fuel assemblies may be in the fuel transfer carriage.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exception will have no significant impact on the quality of the human environment (55 FR 33788).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 20th day of August 1990.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Director, Division of Reactor Projects—III, IV, V and Special Projects Office of Nuclear Reactor Regulation.

[FR Doc. 90-20212 Filed 8-27-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Extension of OFI-10 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, United States Code, chapter 35), this notice announces the reclearance of an information collection. The Mail Reinterview, OFI Form 10, is completed by individuals who have been interviewed by an OPM investigator during the course of a personnel investigation. This form asks questions regarding the performance of the investigator.

It is estimated that 3500 individuals will respond annually, each requiring approximately 6 minutes to complete, for a total burden of 350 hours. For copies of this proposal, call C. Ronald Trusworthy on (202) 606-2261.

DATES: Comments on this proposal should be received on or before September 27, 1990.

ADDRESSES: Send or deliver comments to—Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 3235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Peter Garcia, (202) 376-3800.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 90-20217 Filed 8-27-90; 8:45 am]

BILLING CODE 6325-01-M

Proposed Extension of Standard Form 113-A

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, United States Code, chapter 35), this notice announces a request submitted to the Office of Management and Budget (OMB) for renewal of authority to collect data for the Monthly Report of Federal Civilian Employment (SF 113-A). The information that is collected monthly provides a timely count of Governmentwide employment, payroll, turnover, and employment ceiling-related data. Uses of the data include monthly reporitng to OMB and publishing the bimonthly Federal

Civilian Workforce Statistics—Employment and Trends; answering data requests from the Congress, White House, other Federal agencies, the media, and the public; providing ceiling-related employment counts required by OMB; and serving as benchmark data for quality control of the Central Personnel Data File. The number of responding agencies is 130. The report is submitted 12 times a year. The total number of person-hours required to prepare and transmit the reports annually is estimated at 3,120. For copies of the clearance package, call C. Ronald Trueworthy, Agency Clearance Officer, on (202) 606–2261.

DATES: Comments on this proposal should be received on or before September 27, 1990.

ADDRESSES: Send or deliver comments to.

C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Management, Room 6410, 1900 E Street NW., Washington, DC 20415.

Joseph Lackey, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: May Eng, (202) 606–2684.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 90–20218 Filed 8–27–90; 8:45 am]

BILLING CODE 6325–01–M

OVERSIGHT BOARD

National Advisory Board Meeting

AGENCY: Oversight Board.

ACTION: Meeting notice.

SUMMARY: In accordance with section 10(a)(2) of the Federal Adivsory Committee Act (Pub. L. 92–463), announcement is hereby published for a meeting of the National Advisory Board.

The meeting is open to the public.

DATES: The meeting is scheduled for Wednesday, September 12, 1990, from 1 to 4 p.m.

ADDRESSES: The meeting will be held in the GSA Auditorium, Government Services Administration Building, 18th & F Streets, NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT:

Jill Nevius, Committee Management Officer, Oversight Board of the RTC, 1777 F Street, NW., Washington, DC 20232, 202/786–9675.

SUPPLEMENTARY INFORMATION: Section 21 A(d) of the Federal Home Loan Bank Act, as added by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law No. 101–73, section 501(a) ("FIRREA"), directed the Oversight Board to establish one national advisory board and six regional advisory boards. An announcement on the establishment of the advisory boards was published in the Federal Register on November 21, 1989 (54 FR 48172).

The advisory boards are to provide information and recommendations on the policies and programs for the sale or other disposition of real property assets of depository institutions, the accounts of which were insured by the Federal Savings and Loan Insurance Corporation before August 9, 1989, the date of the enactment of FIRREA, and for which the Resolution Trust Corporation ("RTC"), has been appointed as the conservator or receiver during the period from January 1, 1989 to August 9, 1992.

Purpose: The purpose of the national advisory board is to provide information and advice to the Oversight Board. This will be the first meeting of the national advisory board.

Agenda: A detailed agenda will be available at the meeting. There will be briefings from the chairman of each of the six regional advisory board meetings held throughout the country between July 13 and August 2. Discussion will focus on the key issues which emerged from the regional meetings. They include seller financing, valuation of real estate, and the disposition of affordable housing.

Statements: Interested persons may submit in writing data, information, or views on the issues pending before the national advisory board. Comments received by the contact person 15 days prior to the meeting. Other written statements can be submitted at the meeting.

The meeting is open to the public. Seating is available on a first come first served basis.

Dated: August 23, 1990.

Diane M. Casey,

Vice President, Office of Public Affairs.

[FR Doc. 90–20206 Filed 8–27–90; 8:45 am]

BILLING CODE 2222–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–28357; File No. SR–BSE–90–10]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Initial Listing and Maintenance Requirements

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 24, 1990, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE proposes to amend section 1 of chapter XXVII of the Exchange's Rules of the Board of Governors to: Impose more stringent criteria for initial listing of common stock on the Exchange; add listing requirements for preferred stock, warrants, and bonds; amend the maintenance criteria for continued listing of common stock on the Exchange; and add new maintenance criteria for preferred stock, warrants, and bonds.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] The exact test of the proposed listing and maintenance requirements was attached to the rule filing as Exhibit 1 and is avaialble at the BSE and the Commission at the address noted in Item IV below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The BSE proposes to modify substantively its initial listing and maintenance criteria for listing securities on the Exchange.[2] Currently, the criteria for listing equity securities on the Exchange are guidelines that are not mandatory in each case. Under the BSE proposal, the quantitative criteria would be mandatory requirements for each applicant.

Under the BSE proposal, the following criteria would be deleted from its existing gudelines for listing equity securities: (a) A company must be actively engaged in business and have been so operating for at least three consecutive years; (b) a company shall have outstanding 250,000 or more shares of the common or preferred stock to be listed; [3] and (c) the Exchange must be satisfied as to the adequacy of the company's working capital, the reputation of the company's management, and the company's agreement to publish periodic reports. The BSE proposes to add the following new requirements which much be satisfied by an issuer in order to list equity securities on the Exchange: (a) A company must have outstanding a public float of 500,000 or more shares; (b) at the time of listing, a company must have a minimum bid price of no less than $1 per share; and (c) a company must have a minimum of 500 beneficial stockholders.

The BSE currently has a guideline requiring that a company have at least $1,000,000 in total assets. The Exchange proposes to change this guideline into a mandatory requirement that, to list equity securities on the Exchange, the issuer must have at least $1,500,000 in tangible assets.

In addition, the BSE proposes to add a provision to an existing guideline, which currently requires a company to maintain stock transfer facilities with a transfer agent, which would provide that if a company is to be listed exclusively on the BSE, that company will not be permitted by the Exchange to act as its own transfer agent.

The BSE proposes also to add language following the mandatory numerical requirements for equity securities setting forth standards for different types of companies seeking to list on the Exchange. For companies that have been actively engaged in business for two or more years, the Exchange will review the earnings trend and working capital of that company prior to approving it for listing. For companies seeking to list on the Exchange following an initial public offering, the BSE proposal waives the beneficial stockholder mandatory requirement. The Exchange will require, however, assurances from these companies that the minimum stockholder requirements will be met following the distribution of the shares. If not met within six months of listing, the proposal states that the Exchange will consider suspending trading in the stock until the stockholder requirement is met. The BSE proposal further states that these companies must have a positive net worth following distribution of the offering.

Further, the Exchange proposes to add language stating that even if a prospective issuer meets the mandatory requirments set forth in this section, the Stock List Committee ("Committee") has the discretion to determine that an applicant does not qualify for listing. In making such a determination, the Committee may take into consideration factors such as the business reputation and prior experience of the company's management; its relationship, if any, to other publicly traded companies; the company's asset base; and the company's working capital.

The Exchange proposes also to add requirements for the listing of warrants, preferred stock, and bonds on the Exchange.[4] Like the amended standards for common stock, the new standards for warrants, preferred stock, and bonds would be requirements that must be satisfied in order for an issuer to list these securities on the Exchange. Under the proposal, to list warrants on the Exchange, an issuer must have outstanding a public float of 250,000 or more warrants and 250 beneficial holders. To list preferred stock, a company must have outstanding a public float of either 250,000 or more shares, or valued at $1,000,000 or more and 250 beneficial holders. To list bonds, an issuer must have a minimum of $5,000,000 principal amount and 200 benefical holders.

Finally, the BSE proposes to modify its maintenance criteria for common stock and add maintenance criteria for preferred stock, warrants, and bonds. Under the proposal, issues will be considered for delisting by the Exchange if they drop below certain stated minimums.[5] For common stock, the minimum levels at which the Exchange will review the issuer for delisting is $500,000 in tangible assets, a public float of 150,000 shares and 250 beneficial stockholders. For preferred stock, an issuer must maintain a public float of 100,000 shares and 100 benefical holders. For bonds, an issuer must maintain a $250,000 principal amount outstanding and 100 beneficial holders.

The purposes of the proposed rule change is to amend the listing and maintenance requirements of the Exchange to establish minimum requirements as opposed to guidelines where practicable, to modernize and clarify the language of the rule, and to begin to respond to the Commission's concerns regarding certain issuers and promoters seeking listing solely as a means to avoid the requirements of Rule 15c2–6 under the Act.[6] This rule change is a prelude to an undertaking by the Exchange at the request of its Board of Governors to study the Exchange's entire listing program and recommend further changes and enhancements where appropriate.

The statutory basis for the proposed rule change is section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to prefect the machanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants of Others

The Exchange has neither solicited nor received comments on the proposed rule change, except from the Stock List Committee.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal**

[2] The BSE proposes to change the title of chapter XXVII from *Listed Securities—Policy on Informing the Public* to *Listed Securities—Requirements.*

[3] Currently, the BSE does not have separate listing standards for common stock, preferred stock, warrants, or bonds.

[4] The Exchange currently has no listing standards for preferred stock, bonds, and warrants.

[5] Under the BSE's new proposed maintenance requirements, the Exchange may give consideration to any definitive action that a company proposes to take that would bring the criterion in question in line with the requisite maintenance provisions.

[6] 17 CFR 240.15c2–6 (1989).

Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the propsed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all Written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR-BSE-90-10 and should be submitted by September 18, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 21, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-29167 Filed 8-27-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28358; File No. SR-Phlx-90-7]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Initial Listing and Maintenance Requirements

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 30, 1990, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Exchange Rules 800 through 805 concerning listing and maintenance standards for securities. The rules are being changed so significantly that the new rules will completely replace the existing ones. Specifically, the Phlx proposed to: Impose more stringent criteria for initial listing of common stock, warrants, preferred stock, and bonds on the Exchange; add listing requirements for units, index warrants, and shares of foreign issuers/American Depository Receipts ("ADRs"); amend the maintenance criteria for continued listing of common stock, preferred stock, and bonds; and add new maintenance criteria for warrants, units, and shares of a foreign issuer/ADRs. In addition, the Phlx proposes a new requirement that issuers included in the National Association of Securities Dealers Automated Quotation/National Market System ("NASDAQ/NMS") that seek to list common stock on the Exchange, must have an audit committee comprised of a majority of independent directors.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Phlx has a set of rules which govern the listing and delisting of securities on the Exchange. The standards established by the rules, however, are administered as guidelines to be used in determining whether a security should be listed on or delisted from the Exchange. The current rules have remained the same since 1980 so the Exchange recently undertook to review and revise these guidelines in light of the changes to the Exchange and the securities environment over the last ten years. The very first change is to Rules 800 and 801. When these rules were last revised in 1980, the Board of Governors of the Exchange delegated the responsibility to administer these rules to the Committee on Stock List. The Committee on Stock List no longer exists but the responsibility has since been redelegated to the Allocation, Evaluation and Securities Committee ("Committee").[2] Thus, the proposed Rules 800 and 801 now note that this Committee has such authority.

Rule 802 previously stated that the Committee on Stock List would consider all applications for listing on the Exchange. That rule is being deleted because it will already be stated in a more general fashion in the new Rule 800 which provides that the Committee will administer these rules. Further, the Committee has recently undertaken a new procedure where it has delegated initial review authority of listing applications to the staff of the Department of Securities. The staff will review applications to determine if the issuer meets the applicable numerical guidelines set out in Rule 803. If the applicant does not meet these guidelines, it will be sent notification thereof. The Committee will, however, review all staff decisions on issuers which do not meet Exchange guidelines. If the staff determines that an issuer, while not meeting guidelines in every respect, still deserves further consideration for other reasons, it may ask the Committee to consider listing it anyway. If the Committee determines that an applicant not meeting the listing guidelines should be listed, it must make that recommendation to the Board of Governors which will have the sole authority to approve the security for listing. In cases where the security meets all of the applicable guidelines, the staff will bring it to the Committee's attention for consideration. The Committee, without Board approval, may approve for listing any security that meets the requirements in Rule 803.

Previously, Rule 805 provided that the Exchange does not rate or evaluate the securities that it lists and that it does not verify information provided by issuers, but relies on independently

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[1] The exact text of the proposed listing and maintenance requirements was attached to the rule filing as Exhibit 1 and is available at the Phlx and the Commission at the address noted in Item IV below.

[2] *See* Phlx By-Law 10-7(d).

audited financial statements and other disclosure documents. Because Rule 805 deals with maintenance standards and delisting, this provision is more relevant as a general matter rather than being specifically addressed to removals and suspensions based upon Exchange findings. It is, therefore, being moved to stand alone as Rule 802.

Generally, the listing process has been positively revised in the following aspects. First, all of the numerical criteria for listing and maintenance have been increased by at least fifty percent. Second, although the rules are still guidelines, only the Board can provide relief therefrom. Finally, other non-numerical factors, as described below, will be considered by the Committee prior to approval for listing.

Rule 803 sets forth the guidelines that the Committee will use in reviewing applications for listing of securities. Previously, there were sections devoted to common stock, preferred stock, warrants, and bonds. The new rule will further break out rules for units, index warrants, currency warrants, and shares of foreign issuers/ADRs. The rule begins by stating that, aside from generally meeting the numerical criteria set forth in the rule, a number of subjective factors may be considered by the Committee. For instance, the company must be a going concern. Also, the Committee will look at whether the company has a viable product and whether there is an existing or potential market for its product or service. Finally, the Committee may also consider the existing public interest in the securities of a public company or the lack thereof. When reviewing applications of issuers which are subject to delisting proceedings by either the New York Stock Exchange or the American Stock Exchange, the Committee will only be required to consider these non-numerical criteria.

Rule 803 provides the criteria for common stock, but will now only apply to common stock of domestic issuers. New subsection (f) will deal with foreign issued securities. The first criteria of shares issued and outstanding is being increased from 250,000 to 750,000. Also, a new $3.00 price per share standard is being added. Subsequently, the shares' minimum market value is being increased from $500,000 to $2,250,000. Finally, the provision that the number of shares must be exclusive of concentrated holdings and those of officers and directors is being more clearly defined as an exclusion of shares held by those required to report their stock holdings under section 16(a) of the Act.

For common stock, Rule 803 currently requires at least 1,000 holders of record. This requirement is being revised in two ways. First, the criterial will be beneficial holders instead of holders of record and, second, the number will be 500 instead of 1,000. Experience has shown that beneficial holders gives a more accurate picture of the diversity of holdings and that 1,000 holders was usually an impossible standard to meet even for otherwise worthy securities of small issuers.

Currently, the third criteria is demonstrated net earnings for two of the last three years. That criteria would now be increased to net income of at least $100,000 a year for three out of the last four years or, alternatively, the new criteria of at least $500,000 in shareholder equity. Also, the net tangible asset requirement will be increased from $1,000,000 to at least $1,500,000. By looking at the alternative criteria of net earnings or shareholder equity, the Exchange would be able to consider small growing companies that have large revenues, but small net income, for the past few years because of reinvesting their profits for research and development. The new alternative standard which is taken from a company's balance sheet should help the Exchange more accurately detemine a company's overall structure and well being.

Finally, the Exchange is proposing a requirement that all NASDAQ/NMS issuers that list on the Phlx establish and maintain an audit committee, a majority of the members of which must be independent directors.[3] The Exchange will not, however, require an audit committee for non-NASDAQ/NMS issuers because the majority of those issuers that list on the Phlx are small growing companies and it may not be practical or necessary for these fledgling companies to establish an audit committee. The audit committee, where required, would have to be composed of at least a majority of outside directors. As long as a majority of the directors are independent, the Committee should still be sufficiently unbiased in its actions, but also be able to benefit from the knowledge of its inside directors.

Rule 803(b) provides the standards for warrants. The new rule would double the number of outstanding warrants to 500,000 and would exclude section 16(a) Reporting Persons, similar to the new requirement for common stock. The requirement that there be at least 500 holders of a class of equity securities which would othewise be eligible for listing would be deleted because it is not possible to have warrants which do not have an underlying class of equity securities. Instead, warrants must also meet the quality of issuer standards set out in Rule 803(a) (3), (4), and (6).

Rule 803(c) provides the standards for preferred stock. The new rule would increase the required number of shares outstanding from 200,000 to 500,000 and again exclude section 16(a) Reporting Persons similar to the common stock requirement. The holders of record standard is being changed to beneficial holders, but that number will remain the same at 250. Also, the 500 holders of a class of equity securities which otherwise be eligible for listing is being deleted because it has not been found to provide any useful information. Finally, the quality of issuer standards of Rule 803(a) (3), (4), and (6) will also apply to preferred stock.

Rule 803(d) provides standards for bonds. The new rule would double the principal amount outstanding to $2,000,000, but would keep the aggregate market value requirement of $1,000,000. This way, bonds that would trade at below par value could be listed. Again, the holder of record standard is being changed to beneficial holders, but will remain at 250. Finally, the quality of issuer standards of Rule 803(a) (3), (4), and (6) are also being added.

The proposed rule change would add subsection (e) which would provide that the Committee would review unit offerings by looking at its component parts.

Subsection (f) would also be added to Rule 803 by this rule change and would relate to shares of foreign issuers which are either registered directly or as ADRs. First, these shares must be either registered or exempt from registration under the Act. Second, the requirement for the number of shares outstanding is the same as that for domestic common stock, except that the shares must be issued and outstanding in the United States. Further, the minimum market value will be $1,500,000 and must be measured in U.S. dollars. Also, the beneficial holders, net tangible assets, and shareholder equity requirements are the same as those for domestic common stock, except the beneficial holders must be in the United States and the assets and shareholder equity must be in U.S. dollars. Finally, the share certificates must be printed in English, be in registered form, and must

[3] The Exchange notes that it previously filed a rule change, SR–Phlx–90–6, which added this requirement to its listing standards. It was subsequently withdrawn on April 12, 1990 so that the Exchange could incorporate it into these new listing standards. Nevertheless, the same requirement and reasoning is now being proposed as was in the earlier filing.

be interchangeable and capable of being delivered or transferred in this country, as well as the contry of origin.

If the foreign company wistes to list as ADRs, further requirements would be added to facilitate public trading. The ADRs must be issued by a U.S. bank or trust company representing the deposit of an equivalent amount of underlying foreign shares. They must also conform to customary standards of form and printing. Finally, the issuer must furnish any shareholder material to American shareholders in the English language.

New subsection (g) will set out the guidelines for warrants based on market indicies. Previously, the Exchange submitted a rule change which dealt specifically with listing standards for index warrants (SR–Phlx-90–8).[4] The subsection is exactly the same as what is proposed in the earlier filing except that it would be reunmbered as Rule 803(g) instead of .01 of Supplementary Material.

New subsection (h) will set out guidelines for currency warrants. Previously, the Exchange used the generic warrant criteria for currency warrants, but now specific guidelines are being proposed. They are exactly the same as those proposed for index warrants: (1) Issuer assets in excess of $100 million; (2) minimum public distribution of 1 million warrants with at least 400 public holders; and (3) an aggregate market value of $4 million, or the warrants must already have been approved for trading on another national securities exchange.

The new subsection (i) provides, as has always been the Exchange's policy, that these standards are not mandatory, but are guidelines for the Committee to use in making listing decisions. As described above, however, the procedures with respect to when a particular guideline may not apply are substantially changed. The guidelines will be adhered to generally, with exceptions made only in rare cases and only where the Board of Governors so approves.

New subsections (j) and (k) codify the Exchange policy that, for initial public offerings, a security would not be eligible for listing until the day that its registration statement is effective with the Commission and that securities traded in the secondary market must be registered under section 12(d) of the Act.

Rule 804, which deals with involuntary suspensions and issuers who request removal from listing on the Exchange, is not being changed by this rule filing.

Rule 805 sets forth the maintenance standards that a security must meet in order to avoid being considered for delisting. The current subsections (b)(1) through (b)(7) will remain the same, except that it will now be subsections (a)(1) through (a)(7). These are general categories of securities that may be subject to suspension and/or withdrawal from listing.

Subsections (b) provides the specific maintenance standards for domestic common stock. Generally, the maintenance standards for all securities will be 50 percent of the listing standards. The existing criteria of publicly-held shares is being changed to shares issued and outstanding, excluding holdings of section 16(a) Reporting Persons, and the shareholders of record is being changed to a beneficial holder standard. The current total assets standard is being changed to one that looks at shareholder equity because assets could be inflated by inclusion of goodwill and other intangibles. It is felt that shareholder equity is a more accurate standard for review.

A maintenance standard for warrants is being added as subsection (c). The criteria will provide that an issuer must maintain at least 250,000 warrants outstanding, which is half of the listing criteria warrants. Issuers must also adhere to the shareholder equity standard of Rule 805(b)(4) and the general standards in Rule 805(a).

The preferred stock maintenance standards are being revised somewhat similar to those for common stock. The 50,000 publicly-held shares criteria has proved to be very low so it would now be 250,000 shares outstanding which is half of the listing criteria. The 100 shareholders of record is being changed to 100 beneficial holders and the requirements of no class of equity securities held by 500 or more persons is being deleted as it is for the listing of preferred shares. The total assets requirement is being replaced by the shareholder equity criteria of subsection (b)(4).

Subsection (e) relating to bonds would double the principal amount outstanding and market value criteria so that they are still half of the new bond listing standards. The class of equity securities criteria is being deleted as it is everywhere else in the rule, but will be replaced by that of 125 beneficial holders. Finally, the total assets of $1 million is also being replaced by the shareholder equity requirement of subsection (b)(4).

New subsection (f) provides that units may be delisted if the components no longer satisfy the respective criteria of Rule 805.

New subsection (g) provides the maintenance standards for foreign issuer shares and ADRs. They are basically the same as those for domestic common stock, except to add that beneficial holders and shares issued and outstanding must be in the United States and aggregate market value must be in U.S. dollars.

Supplementary material is being added to the rule to set out other situations which may trigger suspension or delisting. For instance, failure to comply with the listing agreement, operations being conducted by the issuer or its management which are contrary to the public interest or not being current in paying listing fees to the Exchange may result in suspension or delisting. Finally, supplementary material .02 restates the Exchange's existing policy that maintenance standards are guidelines and not mandatory in each case. The Exchange is, however, diligently reviewing all listed companies for compliance and taking steps to delist those that do not meet the guidelines. Further, the same procedure as in the case of listing will apply in that only the Board of Governors can grant exceptions to the maintenance standards and this will only occur in rare cases where good cause is shown. When the new maintenance standards go into effect, there will be a two-year "grandfather" period for currently listed companies that do not meet the new increased standards. If at the end of the two year period, a company still is not able to comply, the Committee may consider delisting at that time.

The statutory basis for the proposed rule change is section 6(b)(5) of the Act in that it is designed to perfect the mechanism of a free and open market and a national market system, and is not designed to permit unfair discrimination between issuers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

[4] The Commission notes that it recently approved SR–Phlx–90–8 which set forth initial listing standards for index warrants on the Phlx. *See* Securities Exchange Act Release No. 28266 (July 26, 1990), 55 FR 31275 (August 1, 1990).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-90-7 and should be submitted by September 18, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 21, 1990.

Margaret H. McFarland,

Deputy Secretary,

[FR Doc. 90-20168 Filed 8-27-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28353; File No. SR-Philadep-90-01]

Self-Regulatory Organizations; Philadelphia Depository Trust Co.; Filing of a Proposed Rule Change Concerning Unresolved Discrepancies in Securities Accounts

August 17, 1990.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, as amended ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 19, 1990, the Philadelphia Depository Trust Company ("Philadep") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of a proposal to adopt new Philadep Rule 30 that would govern the disposition of excess long and short positions in securities accounts, and a corresponding amendment to Philadep Rule 2 relating to participants and pledges.

The following is the full text of the proposed rule change. (New language is italicized; deleted language is bracketed.)

Philadelphia Depository Trust Company Rules

Rule 2. Section 1.

An entity whose application to become a participant has been approved by the Corporation shall pay to the Corporation its original contribution to the Participant's Fund determined in accordance with the provisions of Rule 4 and shall sign and deliver to the Corporation an instrument in writing whereby such applicant shall agree:

* * *

(f) That the participant shall authorize the Corporation to retain for the Corporation's use the amount of any security which the Corporation holds in its inventory in excess of the amount of such security which, according to the Corporation's records, it is obligated to deliver. The participant's authorization is limited by the conditions established in Rule 30.

[(f)] *(g)* * * *
[(g)] *(h)* * * *
[(h)] *(i)* * * *
[(i)] *(j)* * * *
[(j)] *(k)* * * *
[(k)] *(l)* * * *
[(l)] *(m)* * * *
[(m)] *(n)* * * *

Securities Discrepancies Rule 30

Section 1. In the event the Corporation should determine that the amount of any security which it holds in its inventory exceeds the amount of such security which, according to its acounting records, it is obligated to deliver (such determination being herein called an "overage determination") the Corporation shall do the following:

(a) The Corporation shall use its best efforts to determine which participant is entitled to the receipt of such security.

(b) After ninety days from the date of the overage determination, the Corporation may make such use of the security as the officers of the Corporation may deem desirable and in the best interests of the Corporation.

(c) After two years from the date of the overage determination, the Corporation shall have the right to sell such security and to deposit the proceeds from such sale in the Contingency Reserve of the Corporation.

After two years from the date of the overage determination in respect of any security, the Corporation shall have no further liability to any participant, past-participant or to any person claiming through any participant, in respect of such security or any proceeds from the sale thereof. However, the officers of the Corporation may, in their discretion, deliver such security or the net proceeds from the sale thereof, without interest, to any participant, past-participant or any person claiming through any participant who furnishes the Corporation with (i) satisfactory evidence of his right to have received delivery of such security and (ii) satisfactory indemnification against any claim which might arise as a result of such delivery or payment.

Section 2. In the event the Corporation should determine that the amount of any security which it holds in its inventory is less than the amount of such security which, according to its accounting records, it is obligated to deliver (such determination being herein called an "underage determination"), the Corporation shall do the following:

(a) The Corporation shall use its best efforts to locate the security.

(b) In the event the Corporation is unable to locate the security within ninety days following the date of the underage determination, such security may be purchased for the account of the Corporation and will be purchased by the second anniversary following the date of the underage determination. In the event that the Corporation purchases such security, the purchase price shall be paid for out of the Corporation's Contingency Reserve. If the security should be located or delivered to the Corporation after any such purchase has been made, the Corporation shall sell such security and deposit the net proceeds threfrom in the Contingency Reserve.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) The Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The rule change clarifies Philadep's contractual relationship with participants [1] with respect to procedures for handling excess long and short positions in the Corporation's securities accounts.

The annual processing of billions of dollars worth of deposits and frequent movements and changes in those deposits result in discrepancies in the Corporation's accounting records. Stock dividends, splits, mergers and other corporate reorganization matters may lead to these discrepancies. In this regard, the Corporation has staff solely dedicated to researching and reconciling any imbalance in the securities accounts and the vast majority of discrepancies, when they do arise, are reconciled through this process. Additionally, participants' securities positions and changes therein are timely disclosed to participants. For example, Philadep, like other securities depositories, operates PHILANET consisting of a network of computer terminal stations located in participants' offices that enable participants to, among other things, review their current securities positions at Philadep. This on-line ability to monitor a participant's securities position is reinforced by a series of hard copy reports, including daily reports, itemizing positions as well as changes in positions. Indeed, participants are required to verify the accuracy of these reports in writing.[2] Should there be a discrepancy between a participant's records and information reported to Philadep, upon notification, Philadep has a policy to acknowledge the matter and respond to the participant with 72 hours of receipt of the inquiry. In light of the internal controls, reconciliation matters in this area are a relatively small problem. Of utmost importance, these reconciliation procedures are subject to internal and external reviews, studies and audits.[3]

The proposed rule change, therefore, addresses the residual problem of those excess long and short positions that remain unresolved after reasonable diligence has been taken by Philadep to reconcile these positions with the bookkeeping. The proposal would require Philadep to use its best efforts to determine which participant, if any, is entitled to receipt of the excess long securities position. If no participant is identified, after three months from the discovery of the overage, Philadep may make use of the securities for any valid corporate purpose. After two years from the overage discovery, Philadep may liquidate the securities position to cash with the proceeds going into the Contingency Reserve account. From this account, funds can be utilized to, among other things, purchase securities to offset unaccounted for short securities positions reflected on Philadep's books.

The proposal is substantially identical to Article VI, Rule 1, section 2 of the Midwest Securities Trust Company ("MSTC"). Moreover, the proposal is an adjunct to Philadep Rule 29 approved by the Commission in December 1986.[4] Rule 29 pertains to unclaimed dividends and other distribution funds and authorizes Philadep's access to those funds after a specific period of time.

Similar to the specific procedural safeguards incorporated in Rule 29 for participants to make a claim on unclaimed dividends and distributions in Philadep's possession, proposed Rule 30 provides a mechanism for any participant to make a claim for its security or the proceeds of such if it was liquidated pursuant to the Rule after a determination had been made that the securities position constituted an excess long position on Philadep's books. In this regard, a participant may make a claim by filing a written application with Philadep for the return of the claimed security. The application must include evidence of the participant's claim and provide indemnification to Philadep against competing future claims as well as an agreement to cover expenses arising from the return of the securities or proceeds to the participant.

The proposal also establishes an orderly and assured mechanism to eliminate the existence of established irreconcilable short positions that give rise to an affirmative duty to pay dividends and deliver securities to participants. Should funds from the liquidation of excess long positions in the Contingency Reserve account be in substantial excess of any amounts needed to cover securities purchases to resolve unaccounted for short positions, Philadep retains the discretion to utilize the excess funds to cover, among other things, the cost of replacing lost certificates and eliminating deficits in the distribution accounts. The existence of a dedicated source of funds such as the Contingency Reserve account established under the proposed rule change would aid in eliminating the short positions that pose a risk to the Depository in terms of dividend payouts and market price fluctuations in the securites purchased within two years following the date the short position was created.[5] In light of the above, Philadep believes that the proposal is consistent with section 17A(b)(3)(A) of the Act in that it promotes the prompt and accurate clearance and settlement of securities transactions while ensuring the safeguarding of funds and securities in Philadep's custody and control.

(B) Self-Regulatory Organization's Statement on Burden on Completion

The proposed rule change is procompetitive in that it establishes a policy and practice similar to that in effect at another registered clearing agency.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change have not been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal

[1] In this regard, Philadep Rule 2, section 1 provides that the "By-Laws and Rules of the Corporation shall be a part of the terms and conditions of every contract or transaction which the participant may make or have with the Corporation."

[2] *See* section 1.3 of Philadep's Participants Manual.

[3] In this respect, as a limited purpose trust company under Pennsylvania law and a registered securities clearing corporation which is a member of the Federal Reserve System, Philadep is periodically examined by the Commonwealth of Pennsylvania banking authorities, the Federal Reserve Board Examiners and the Securities and Exchange Commission staff. Moreover, the procedures and practices of Philadep are reviewed by its independent public accountant as well as its own internal audit department.

[4] *See* Securities Exchange Act Release No. 23942 (December 29, 1986), 52 FR 637 (January 7, 1987).

[5] *See* section 2(b) of proposed Rule 30.

Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549. Copies of the Submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principle office of Philadep. All submissions should refer to file number SR-Philadep-90-01 and should be submitted by September 18, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-20169 Filed 8-27-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28354; File No. SR-PHLX 90-20]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Equity Options Parity and Priority Rules

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 31, 1990, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX proposes the following amendments to PHLX Rule 1014 and Option Floor Procedure Advises B-6 and B-11 relating to its parity and priority rules. This filing supersedes SR-PHLX-89-10 and all related amendments filed with the Commission. Additions are italicized while deleted language is bracketed.

Obligations and Restrictions Applicable To Specialists and Registered Options Traders

Rule 1014. (a)-(f) No change.

(g) Exchange Rules 119 and 120 direct members in the establishment of priority of orders on the floor. In addition, equity option and index option orders of controlled accounts are required to yield priority to customer orders when competing at the same price, as described below.

For the purpose of Section (g) of this rule, an account type is either a controlled account or a customer account. A controlled account includes any account controlled by or under common control with a broker-dealer. Specialist accounts of PHLX Option Specialists, however, are not subject to yielding requirements placed upon controlled accounts by this Rule. Customer accounts are all other accounts.

Orders of controlled accounts must yield priority to customer orders, except that PHLX ROTs closing in-person are not required to yield priority to orders of customer accounts.

Orders of controlled accounts are not required to yield priority to other controlled account orders, except that when both an order of a PHLX ROT closing in-person and some other order of a controlled account are established in the crowd at the same price, and then a customer order is established at that price, the order of the conrolled account must yield to the customer order while the order of the PHLX ROT closing in-person does not have to so yield.

Orders of controlled accounts, other than ROTs and Specialists market making in person, must be (1) verbally communicated as for a controlled account when placed on the floor and when represented to the trading crowd and (2) recorded as for a controlled account by appropriately circling the "yield" field on the floor ticket of any such order.

* * * Commentary

.01-.11 No change.

.12 Priority-parity—An ROT, in establishing or increasing a position, may not retain priority over or have parity with an off-floor order, except that such an ROT may retain priority over or have parity with an off-floor order for the account of a member or broker-dealer which is establishing or increasing a position in the trading crowd. Orders of broker-dealers must be appropriately identified.

.13-.17 No change.

The PHLX also proposes to amend its Option Floor Procedure Advice B-6 to conform to the proposal changes set forth above.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis, for the Proposed Change

The purpose of the proposed rule change is to clarify the parity and priority rules governing auction trading in PHLX equity and equity index options. On March 7, 1989 the Exchange filed SR-PHLX-89-10 proposed amendments to the PHLX's options floor procedure advice governing Exchange equity options parity and priority procedures.[1]

By way of this filing, the PHLX hereby supersedes SR-PHLX-89-10 and all corresponding amendments. Thus, this filing constitutes the complete revision to PHLX equity options parity and priority rules. Specifically, the changes to PHLX Rule 1014 and Option Floor Procedure Advice B-6 eliminate previous provisions which had the effect of allowing "firm" orders to have parity

[1] *See* Securities Exchange Act Release No. 26679 (March 29, 1989), 54 FR 13798.

with and priority over "customer" orders in certain circumstances. The proposal also will have the effect of providing orders of public customers with priority over firm and ROT opening orders in all circumstances. In addition, the proposal would eliminate the distinction currently in the Exchange's rules between ROT and firm orders, which under certain circumstances accords priority for firm orders over ROT orders. PHLX Specialist accounts are nevertheless are required to yield to other such orders because of the regulatory responsibilities imposed on specialists.

The Exchange believes the proposed rule change is consistent with sections 6(b) (15) and 11 of the Act in that it is designed to prevent fraudulent and manipulative acts and practices, will promote just and equitable principles of trade and protect investors and the public interest.

B. Self-Regulatory Organizations Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 18, 1990.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 20, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-20223 Filed 8-27-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17689; 811-7426]

Europacific Growth Fund; Application

August 21, 1990.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Europacific Growth Fund (the "Applicant").

RELEVANT ACT SECTION: Exemption requested under section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) and Rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicant seeks an order amending prior orders (Investment Company Act Release Nos. 14161 (September 17, 1984) (notice), 14195 (October 15, 1984) (order) and 16908 (April 10, 1989) (notice), 16945 (May 9, 1989) (order)) (together "Prior Orders") which permit Applicant and other funds in The American Funds Group with substantially the same sales structure ("Other Funds") to assess a contingent deferred sales charge on certain redemptions of their shares and to waive the charge in certain situations. The requested order would permit the waiver of a contingent deferred sales load ("CDSL") in connection with periodic redemption payments pursuant to an automatic withdrawal plan ("Plan").

FILING DATE: The application was filed on November 6, 1989 and amended on January 13, 1990 and August 21, 1990. Applicant has agreed to file an amendment to the application during the notice period, the substance of which has been agreed upon and incorporated into the notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 17, 1990 and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Applicant, c/o Michael J. Downer, Esq., Capital Research and Management Company, 333 South Hope Street, 52nd Floor, Los Angeles, California 90071.

FOR FURTHER INFORMATION CONTACT: Kimberly Warren, Staff Attorney, at (202) 272-3026, or Max Berueffy, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch or by contacting the Commission's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is a Massachusetts business trust and an open-end diversified management investment company registered under the Act. Applicant offers its shares to the public through broker-dealers that have dealer agreements with American Funds Distributors, Inc., Applicant's principal underwriter. Applicant offers its shares for sale at net asset value plus a traditional sales load on purchases of less than $1,000,000. For purchases of $1,000,000 or more, Applicant imposes no front-end sales load thereby enabling such purchasers to have the proceeds of their purchase payments fully invested at the time of the investment.

2. The Prior Orders, which were issued on behalf of Applicant and the Other Funds permit the imposition of a

CDSL on certain redemptions of shares with an initial price of $1,000,000 or more. The amount of the CDSL payable upon redemption is equal to 1% of the lesser of the net asset value of Applicant's shares at the time of purchase or the net asset value of the shares at the time of redemption. The maximum amount of any CDSL or any combination of CDSL and sales load payable at the time Applicant's shares are purchased does not exceed the maximum sales charge that could have been imposed at the time the shares were purchased under Article III, section 26(d) of the National Association of Securities Dealers Rules of Fair Practice. No amount is charged to shareholders or to the Applicant that is intended as payment of interest or any similar charge related to a CDSL.

3. No CDSL is imposed when the investor redeems: (1) Shares representing amounts derived from increases in the value of the account due to increases in the net asset value per share of Applicant above the total cost of shares being redeemed; (2) shares acquired through reinvestment of dividend income and capital gains distributions; or (3) shares held for more than 12 months. In determining whether or not a CDSL is payable, it is assumed that shares held the longest are the first to be redeemed.

4. Pursuant to the Prior Orders, Applicant currently waives the CDSL on (a) an exchange of shares offered by Applicant for shares of the Other Funds, (b) redemptions which are necessary in order to make distributions from retirement plans qualified under Internal Revenue Code ("Code") section 401(a) to plan participants, or due to death of a participant, (c) distributions from a Custodial Account under Code section 403(b)(7) or an IRA due to death, disability or attainment of age 59½, (d) a tax-free return of an excess contribution to an IRA, and (e) distributions by other employee benefit plans to pay benefits. Applicant also provides a credit for any CDSL paid in connection with a redemption of shares followed by a reinvestment effected within 30 days of the redemption.

5. Applicant's shares may be redeemed pursuant to an automatic withdrawal plan (the "Plan"). The Plan allows shareholders to elect to make automatic withdrawals of $50 or more from a shareholder account in any designated month(s) as follows: (1) Five or more withdrawals per year—for those accounts having shares with a value based upon the public offering price, of $10,000 or more; and (2) four or fewer withdrawals per year—for those accounts having shares with a value, based upon the public offering price, of $5,000 or more. Applicant asks that the Prior Orders be amended to permit the waiver of the CDSL in connection with periodic redemptions made pursuant to the Plan, provided the total annual withdrawals from all assets that would otherwise be subject to the CDSL made pursuant to the Plan do not exceed 10% of such assets.

6. The Applicant's Board of Trustees will consider, among other items, the amount of revenue generated by the CDSL during their annual consideration of the Applicant's plan of distribution, pursuant to Rule 12b–1(b)(3)(i) under the Act.

Applicant's Legal Analysis

1. Applicant believes that the opportunity to receive regularly scheduled, automatic redemptions is attractive to many of its larger shareholders. Because a CDSL applies only to redemptions which reduce the value of a shareholder's account below his aggregate purchase payments (within the previous 12 months), a shareholder may redeem any earnings (*i.e.*, dividends or capital gain distributions, or increases in per share net asset value) without paying a CDSL. Therefore, a shareholder currently wishing to receive payments from Applicant during the first 12 months after a large investment without paying a CDSL must elect to receive dividends or capital gain distributions in cash and/or redeem increases in per share net asset value. However, since earnings fluctuate, a shareholder cannot predict the value of the payments that will be received. In addition, in order to redeem amounts reflecting per share increases in net asset value without incurring a CDSL, the shareholder must actively monitor fluctuations in account value. Applicant submits that waiving the CDSL as described above will remove this uncertainty and provide the convenience of automatic redemptions.

2. Applicant asserts that the requested waiver benefits existing shareholders by encouraging large investments. These large investments would increase Applicant's asset base and average shareholder account size considerably. This is turn would likely reduce Applicant's operating expenses.

3. Applicant submits that requested relief is appropriate on basic considerations of fairness. Over time, the aggregate amounts redeemed without pursuant to the Plan should generally not exceed amounts that could have been redeemed directly without charge. To the extent amounts redeemed pursuant to the Plan do not exceed increases in account value over time, Applicant contends that there would be no difference in treatment between shareholders electing to participate in the Plan and those not participating.

4. Applicant submits that the proposed waiver of the CDSL in the above circumstances would be consistent with sound business practice, fair, and in the best interests of the Applicant's shareholders. Waiver of the CDSL under the Plan would not harm the Applicant, or non-participating shareholders, or unfairly discriminate among shareholders or purchasers.

Applicant's Conditions

Applicant and any of the Other Funds seeking to rely on this order agree to the following conditions to the Prior Orders if amended as requested:

1. Applicant will comply with the provisions of Rule 12b–1 under the Act both currently and as that rule may be modified by the Commission in the future.

2. Applicant will comply with provisions of Rule 22d–1 under the Act.

3. Applicant will comply with the provisions of proposed Rule 6c–10 under the Act as currently proposed and as it may be reproposed, adopted or amended.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–20219 Filed 8–27–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–17690; 811–4701]

Global Growth and Income Fund, Inc.; Application

August 21, 1990.

AGENCY: Securities and Exchange Commission (SEC).

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Global Growth and Income Fund, Inc.

RELEVANT 1940 ACT SECTIONS: Order requested under section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on February 7, 1990, and amended on May 25, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person

may request a hearing on this application, or ask to be notified if a hearing is ordered. Hearing requests should be received by the SEC by 5:30 p.m. on September 18, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Interested persons may request notification of the hearing date by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549; Applicant, One Bankers Trust Plaza, New York, New York 10006.

FOR FURTHER INFORMATION CONTACT: Thomas G. Sheehan, Staff Attorney, (202) 282–7324, or Stephanie M. Monaco, Branch Chief, (202) 272–3022 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant is a diversified closed-end management investment company incorporated under the laws of the State of Maryland on May 19, 1986. On June 9, 1986, Applicant registered as an investment company under the 1940 Act and filed a registration statement under the Securities Act of 1933 to register 5,750,000 of each of Applicant's Capital Shares (common stock) and Income Shares (preferred stock). Applicant's registration statement became effective on September 3, 1986, and the initial public offering commenced immediately thereafter.

2. On April 27, 1989, Applicant's Board of Directors approved a plan of complete liquidation and dissolution of the Applicant (the "Plan"). The Applicant distributed proxy materials regarding the plan to security holders on or about June 9, 1989. The Plan was approved by two-thirds of the Capital Shares and Income Shares, voting as separate classes, and two thirds and a majority (as defined under the 1940 Act) of the outstanding Capital Shares and Income Shares voting together as a single class, as required by the Applicant's charter, the 1940 Act, and Maryland General Corporation Law.

3. Following adoption of the Plan, at Applicant's direction, First Boston Asset Management Corporation (the "Adviser") and Nikko Securities Co., Ltd. (the "Sub-Adviser") sold all of Applicant's portfolio of investment securities (except cash equivalent instruments and money market securities) at their fair market value for cash. In connection with such sale, Applicant paid $268,135.46 in brokerage commissions, including $58,677.97 to entities affiliated with the Adviser and Sub-Adviser.

4. The Applicant has effected, and is in the process of effecting, a winding up of its affairs. On August 21, 1989, Applicant made a liquidation distribution (the "First Distribution") of $51,087,114.56 to the holders of the Income Shares, representing $10.2064 per share for each of the 5,005,400 shares outstanding. The Plan contemplates no further distributions to holders of the Income Shares. The balance of the First Distribution ($39,769,781.50) was distributed to holders of the Capital Shares. On the date of the First Distribution there were 5,005,400 Capital Shares outstanding, of which 16.1% were held by minority shareholders and 83.9% by majority shareholders. The majority shareholders consisted of Nikko Securities Co., Ltd. (holding 89.6%), and its subsidiary, Nikko Securities Co., International Inc. (holding 10.4%). Minority shareholders of the Capital Shares received $8.6454 per share, or $6,982,025.04 total, in the First Distribution. This price represented an additional $.70 per share above the then-current net asset value, which came out of the distribution to the majority shareholders. The majority shareholders received $7.8107 per share, or $32,787,756.46.

5. On December 13, 1989, Applicant made a second liquidation distribution of $5,669,116.04 to holders of the Capital Shares (the "Second Distribution"). Under the Second Distribution, the minority shareholders received $914,687.76, and the majority shareholders $4,754,428.28. The Second Distribution consisted of the proceeds of the sale of Applicant's remaining assets and other miscellaneous income realized subsequent to the First Distribution, less a reserve in the amount of $57,443.25 ($17,443.25 to cover known liabilities and $40,000 for unknown obligations).

6. As of December 20, 1989, Applicant had $61,399.02 in assets pending disbursement under the Plan, including the aforementioned reserve. These assets will be distributed to the holders of the Capital Shares when the Board of Directors determines that the reserve is no longer needed. it is currently contemplated that this final liquidation distribution will be made in July 1992.

7. Applicant will be reimbursed by the Adviser and the Sub-Adviser for all expenses incurred in connection with the liquidation, excluding brokerage and related costs incurred in connection with liquidating portfolio securities, to the extent that such costs are treated as capital items under generally accepted accounting principles and SEC accounting requirements. Total liquidation expenses are estimated at $451,000, consisting of $150,000 in legal fees, $15,000 for the transfer agent and liquidating agent, $27,000 for proxy solicitation and mailing costs, $8,000 for miscellaneous expenses, and $236,000 for unamortized deferred organizational and offering costs (computed on a straight-line basis for the period beginning with the commencement of Applicant's business and ending on December 31, 1997). Actual expenses incurred by the Applicant may deviate from these estimates, but in any event will be borne by the Adviser and Sub-Adviser, who have agreed to share all expenses incurred in connection with the liquidation in accordance with a detailed allocation formula. The Adviser's share of these expenses will not exceed the net amount of its advisory fee after payment of the sub-advisory fee accrued during 1989.

8. Applicant has not, within the last 18 months, transferred any of its assets to a separate trust for the benefit of any security holder of the Applicant. In addition, Applicant is not a party to any litigation or administrative proceedings and is not now engaged, nor does it intend to engage, in any business affairs other than those necessary for the winding up of its affairs.

9. Applicant filed a Form N–SAR for each semi-annual period for which such form was required, including the semi-annual period ended December 31, 1989. If a Form N–SAR is required for the period January 1, 1990 through the date that Applicant is deregistered, such form will be filed promptly following issuance of the requested Order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–20220 Filed 8–27–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC-17687; 811-5356]

McDonald Intermediate Government Fund; Application

August 20, 1990

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: McDonald Intermediate Government Fund (formerly known as The NDGC U.S. Government Securities Fund).

RELEVANT 1940 ACT SECTIONS: Order requested under section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on July 12, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Hearing requests should be received by the SEC by 5:30 p.m. on September 17, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549; Applicant, 2100 Society Building, Cleveland, Ohio 44114.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Staff Attorney, (202) 272-3035, or Max Berueffy, Branch Chief, (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. On October 7, 1987, Applicant registered under the 1940 Act as a diversified, open-end management investment company by filing a Notification of Registration on Form N-8A. On that date, Applicant also filed a registration statement on Form N-1A (the "Registration Statement"), which was amended twice thereafter. In the Registration Statement, as amended, the Applicant sought to register an indefinite number of its units of beneficial interest ("shares"). The Registration Statement, as amended, was declared effective on January 4, 1988, and on January 13, 1988, the Applicant commenced a public offering of its shares.

2. Applicant is the sole series of McDonald Investment Portfolios (formerly known as The NDGC U.S. Government Securities Fund) (the "Trust"), a Massachusetts business trust organized and existing under and by virtue of the laws of The Commonwealth of Massachusetts.

3. On January 18, 1990, the Trust's shareholders, at a special meeting, voted to terminate the operations of, and liquidate, the Applicant as of February 15, 1990 by paying out to all the shareholders in cash the remaining net assets of the Applicant. From January 19, 1990 through February 14, 1990, 34 shareholders redeemed 499,466.595 shares in exchange for an aggregate of $4,943,274.11. On February 15, 1990, the remaining 111 shareholders redeemed 1,025,206.201 shares in exchange for an aggregate of $10,108,533.14. Immediately prior to the final redemptions, Applicant had a per share net asset value of approximately $9.86.

4. Applicant has no outstanding assets except its name and its status as a registered investment company and the sole series of the Trust. Applicant has not outstanding liabilities other than legal fees in connection with its application under section 8(f) of the 1940 Act.

5. Applicant, to the best of its knowledge, is not a party to any litigation or administrative proceeding.

6. Applicant is not engaged, nor does it propose to engage, in any business activity other than that necessary to wind up its affairs. If the Commission grants Applicant an order under section 8(f), the Board of Trustees of the Trust will take all action necessary to terminate Applicant's status as the sole series of a Massachusetts business trust pursuant to the laws of The Commonwealth of Massachusetts.

7. Applicant has no securityholders. There are no former securityholders of Applicant to whom disbursement in complete liquidation of their interests in Applicant has not been made.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-20221 Filed 8-27-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17688; 811-5102]

Professional Portfolios Trust; Application

August 21, 1990.

AGENCY: Securities and Exchange Commission ("Sec" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Professional Portfolios Trust.

RELEVANT 1940 ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

FILING DATE: The application on Form N-8F was filed on June 18, 1990 and amended on August 20, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 17, 1990, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, 429 N. Pennsylvania Street, Indianapolis, Indiana 46206-6110.

FOR FURTHER INFORMATION CONTACT: Robert B. Carroll, Staff Attorney, at (202) 272-3043, or Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier

at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant registered as an open-end management investment company under the 1940 Act on April 8, 1987. Applicant filed a registration statement under the Securities Act of 1933 on April 8, 1987 with respect to an indefinite number of shares of beneficial interest, which registration statement became effective on March 2, 1988. The securities registered under the registration statement were divided into the following portfolios: Aggressive Growth Fund, International Fund, Total Return Fund, Timed Equity Fund, High Yield Fund, and Government Securities Fund. Applicant was organized as a business trust under the Indiana Business Trust Act of 1963 on September 14, 1987.

2. On October 25, 1989, the Board of Trustees of the applicant adopted a resolution approving and authorizing the dissolution of the applicant, and the resolution was approved by vote of a majority of the outstanding voting securities of the applicant on January 30, 1990.

3. All of the net assets of the applicant were liquidated and the net cash proceeds were distributed to its remaining shareholders on or about January 31, 1990. The amount distributed was $809,556 in the aggregate, consisting of $124,472 for the Aggressive Growth Fund, $100,565 for the International Fund, $116,251 for the Total Return Fund, $210,615 for the Timed Equity Fund, $121,060 for the High Yield Fund, and $136,593 for the Government Securities Fund.

4. Applicant's organizational expenses were approximately $30,000 and were paid by Unified Management Corporation, the applicant's investment adviser. Unified Management Corporation also paid all legal, accounting, and other expenses incurred in connection with the liquidation of applicant.

5. Applicant has not retained any assets and does not have any debt or other liabilities outstanding. Applicant is not a party to any litigation or administrative proceeding. There are no security holders of applicant. Applicant is not engaged in and does not propose to engage in any activities other than those necessary to wind up its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-20222 Filed 8-27-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice No. 1250]

Los Ebanos, TX; Application for Bridge Permit

Notice is hereby given that the Department of State has received an application for a permit authorizing construction of a bridge across the Rio Grande River from the City of Los Ebanos, Texas to Gustavo Diaz Ordaz, Tamaulipas, Mexico.

The Department's jurisdiction with respect to this application is based upon Executive Order 11423, dated August 16, 1968, and the International Bridge Act of 1972 (Pub. L. 92-434, 86 Stat. 731, 33 U.S.C. 535 approved September 26, 1972).

As required by E.O. 11423, the Department of State is circulating this application to concerned agencies for comment.

Interested persons may submit their views regarding the application in writing by September 27, 1990, to Mr. Irwin Rubenstein, Border Coordinator, Office of Mexican Affairs, Room 4258, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520.

The application and related documents made part of the record to be considered by the Department of State in connection with this application are available for inspection in the Office of Mexican Affairs during normal business hours.

Any questions relating to this notice may be addressed to the Border Coordinator at the above address or by telephone, (202) 647-9894.

Dated: August 17, 1990.

Irwin Rubenstein,

Border Coordinator, Office of Mexican Affairs.

[FR Doc. 90-20152 Filed 8-27-90; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice, Bloomington-Normal Airport, Bloomington/Normal, IL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Bloomington-Normal Airport Authority for Bloomington-Normal Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is August 6, 1990.

FOR FURTHER INFORMATION CONTACT: Prescott C. Snyder, Federal Aviation Administration, Great Lakes Region, Airports Divisions, AGL-611.1, 2300 East Devon Avenue, Des Plaines, Illinois 60018, (312) 694-7538.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Bloomington-Normal Airport are in compliance with applicable requirements of part 150, effective August 6, 1990.

Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has completed its review of the noise exposure maps and related description submitted by the Bloomington-Normal Airport Authority. The specific maps under consideration are the noise exposure maps: Existing Noise Exposure Map and Future (1993) Baseline Noise Exposure Map following pages IV-4 and V-4, respectively, in the submission. The FAA has determined that these maps for Bloomington-Normal Airport are in compliance with applicable requirements. This determination is effective on August 6, 1990. FAA's determination on an airport operator's noise exposure maps is

limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps.

Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, Great Lakes Region, Airports Division Office, 2300 East Devon Avenue, room 269, Des Plaines, Illinois 60018.

Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, room 258, Des Plaines, Illinois 60018.

Bloomington-Normal Airport Authority, Bloomington-Normal Airport, R.R. 1, box 26, Bloomington, Illinois 61704.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Des Plaines, Illinois, on August 6, 1990.

W. Robert Billingsley,

Assistant Manager, Airports Division, Great Lakes Region.

[FR Doc. 90-20198 Filed 8-27-90; 8:45 am]

BILLING CODE 4910-13-M

Intent To Prepare an Environmental Impact Statement and to hold Public Scoping Meetings for Kahului Airport, Kahului, Maui, Hi

AGENCY: Federal Aviation Administration, Transportation.

ACTION: Notice to hold two (2) public scoping meetings.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that an Environmental Assessment (EA) which may be developed into an Environmental Impact Statement (EIS) will be prepared for proposed improvement of the Kahului Airport. To ensure that all significant issues related to the proposed action are identified, two (2) public scoping meetings will be held.

FOR FURTHER INFORMATION CONTACT: David J. Welhouse, Airport Engineer/Planner, Federal Aviation Administration, Honolulu Airports District Office, P.O. Box 50244, Honolulu, Hawaii 96850-0001, Telephone: 808/541-1243.

SUPPLEMENTARY INFORMATION: The FAA, in cooperation with the Airports Division, Hawaii Department of Transportation, will prepare an Environmental Assessment which may be developed into an Environmental Impact Statement (EIS) for the proposed improvements at Kahului Airport. Preparation will be in accordance with the National Environmental Policy Act of 1969, as amended.

The Joint Lead Agencies will be the Federal Aviation Administration (FAA) and the Airports Division, Hawaii Department of Transportation.

The development proposed at Kahului Airport includes:

1. Extend and Strengthen Runway 2/20 to from 6,995 feet to 10,500 feet.
2. Construct new parallel Runway 2R/20L.
3. Extend Runway 5 from 4,990 feet to 5,500 feet including safety areas.
4. Land acquisition to accommodate the extension of Runway 2/20. The construction of new parallel Runway 2R/20L and associated approach protection.

The State of Hawaii may study other development items at Kahului Airport concurrently as part of their environmental assessment in meeting State environmental laws and regulations.

Alternatives: Alternatives to the proposed development include: (1) Alternative expansion levels at Kahului Airport, (2) Alternative modes of travel (3) Utilization of other state airports; and (4) No Action.

Comments and suggestions are invited from Federal, State and local agencies, and other interested parties to ensure that the full range of issues related to these proposed projects are addressed. Comments and suggestions may be mailed to the FAA informational contact listed above.

Public scoping meeting: To facilitate receipt of comments, two (2) public scoping meetings will be held on Thursday, October 4, 1990. The first meeting will be held at the Kahului Public Library at 10 a.m., HST. The second meeting will be held at Kahului Public Library at 7 p.m. HST.

Issued in Hawthorne, California, on Monday, August 13, 1990.

Ellsworth L. Chan,

Acting Manager, Airports Division, AWP-600.

[FR Doc. 90-20199 Filed 8-27-90; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-90-36]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purposes of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number

involved and must be received on or before: September 17, 1990.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–10), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 10591; telephone (202) 267–3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on August 22, 1990.

Denise Donohue Hall,

Manager, Program Management Staff Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 25602
Petitioner: Trans World Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.360
Description of Relief Sought: To revise Exemption No. 5124, which allows petitioner to operate eight Gulf Air L–1011–385–1–15 aircraft between London and New York with CAA-certified ground proximity warning systems installed. The amendment would allow intra-U.S. operation of the same aircraft.

Docket No.: 26206
Petitioner: Mayo Aviation
Sections of the FAR Affected: 14 CFR 135.89(b)(3)
Description of Relief Sought: To allow pilots at the controls of Learjet Models 20 and 30 series aircraft operated by petitioner to fly above flight level 250 without wearing an oxygen mask at all times if each flight crewmember on the flight deck has a quick-donning type of oxygen mask. The certificate holder would have to show that the oxygen mask can be placed with one hand on the face from its ready position, properly secured, sealed, and supplying oxygen upon demand and within 5 seconds.

Dispositions of Petitions

Docket No.: 24761
Petitioner: Executive Jet Aviation, Inc.
Sections of the FAR Affected/ Disposition: 14 CFR 91.191(a)(4) (new 91.511(a)(4)) and 135.165(b) *Description of Relief Sought:* To extend Exemption No. 4709A that allows petitioner to operate its turbo-powered aircraft, equipped with a single long range navigation system and a single high-frequency radio, in extended overwater operations. *Grant, July 23, 1990, Exemption No. 4709B.*

Docket No.: 24981
Petitioner: Pegasus Flight Center, Inc.
Sections of the FAR Affected: 14 CFR 141.65
Description of Relief Sought/ Disposition: To extend Exemption No. 4698, as amended, that allows petitioner to hold examining authority for flight instructor and airline transport pilot (ATP) written tests. Grant, August 16, 1990, Exemption No. 4698B

Docket No.: 25946
Petitioner: Northwest Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.471(a)(4) and part 121, subpart Q
Description of Relief Sought/ Disposition: To allow certain scheduled domestic and international flights of petitioner of operate in accordance with Subpart R—Flight Time Limitations: Flag Air Carriers. Denial, August 10, 1990, Exemption No. 5229

Docket No.: 25960
Petitioner: James M. Logsdon
Sections of the FAR Affected: 14 CFR 91.24 (new 91.215)
Description of Relief Sought/ Disposition: To allow petitioner to fly within 30 national miles of a terminal control area primary airport without a Mode C transponder. Denial, August 10, 1990, Exemption No. 5228

Docket No.: 25971
Petitioner: National Association of Flight Instructors
Sections of the FAR Affected: 14 CFR 135.1(c) and 135.251
Description of Relief Sought/ Disposition: To allow the petitioner's members to submit their anti-drug programs no later than July 1, 1991 (instead of April 15, 1990) and to begin implementation of the program no later than November 1, 1991. Denial, July 23, 1990, Exemption No. 5211

Docket No.: 26039
Petitioner: Delta Air Lines, Inc.
Sections of the FAR Affected: 14 CFR part 121, subpart R
Description of Relief Sought/ Disposition: To allow petitioner to conduct aircraft operations between the contignous 48 States and the state of Alaska, Canada, Mexico, and the Bahamas under the flight time limitations and rest requirements of part 121, subpart Q. Denial, August 10, 1990, Exemption No. 5230

Docket No.: 26040
Petitioner: United States Parachute Association
Sections of the FAR Affected: 14 CFR 135.1(c) and 135.251
Description of Relief Sought/ Disposition: To allow petitioner's members to delay in meeting the requirement to submit an anti-drug testing program until July 1, 1991. Implementation of the plan would be no later than November 1, 1991. Denial, July 23, 1990, Exemption No. 5212

Docket No.: 26049
Petitioner: National Agricultural Aviation Association
Sections of the FAR Affected: 14 CFR 135.1(c) and 135.251
Description of Relief Sought/ Disposition: To allow petitioner relief from the requirements for an anti-drug program. Denial, July 23, 1990, Exemption No. 5213

[FR Doc. 90–20200 Filed 8–27–90; 8:45 am]
BILLING CODE 4910–13–M

Maritime Administration

Removal From Roster of Approved Trustees; First National Bank and Trust Co.

Notice is hereby given pursuant to 46 CFR 221.55 that First National Bank and Trust Company of Evanstan with offices at 800 Davis Street, Evanstan, Illinois, has failed to file its Annual Supplemental Certifications for the periods 1983 through 1990 as required. Therefore, First National Bank and Trust Company of Evanston has been removed from the Roster of Approved Trustees, pursuant to Public Law 100–710 (successor to Pub. L. 89–346).

This Notice shall become effective on August 28, 1990.

By Order of the Maritime Administrator.

Dated: August 22, 1990.

Joel C. Richard,

Assistant Secretary.

[FR Doc. 90–20160 Filed 8–27–90; 8:45 am]
BILLING CODE 4910–81–M

Removal From Roster of Approved Trustees; First Tennessee Bank, N.A.

Notice is hereby given pursuant to 46 CFR 221.55 that First Tennessee Bank, N.A. with offices at 165 Madison Avenue, Memphis, Tennessee, has failed to file its Annual Supplemental Certifications for the periods 1983

through 1990 as required. Therefore, First Tennessee Bank, N.A. has been removed from the Roster of Approved Trustees, pursuant to Public Law 100–710 (successor to Pub. L. 89–346).

This Notice shall become effective on August 28, 1990.

By Order of the Maritime Administrator.

Dated: August 22, 1990.

Joel C. Richard,

Assistant Secretary.

[FR Doc. 90–20163 Filed 8–27–90; 8:45 am]

BILLING CODE 4910–81–M

Removal From Roster of Approved Trustees; The Northern Trust Co.

Notice is hereby given pursuant to 46 CFR 221.55 that The Northern Trust Company with offices at 50 South LaSalle Street, Chicago, Illinois, has failed to file its Annual Supplemental Certifications for the periods 1985 through 1990 as required. Therefore, Northern Trust Company has been removed from the Roster of Approved Trustees, pursuant to Public Law 100–710 (successor to Pub. L. 89–346).

This Notice shall become effective on August 28, 1990.

By Order of the Maritime Administrator.

Dated: August 22, 1990.

Joel C. Richard,

Assistant Secretary.

[FR Doc. 90–20161 Filed 8–27–90; 8:45 am]

BILLING CODE 4910–81–M

Removal From Roster of Approved Trustees; Norwest Bank Minneapolis, N.A.

Notice is hereby given pursuant to 46 CFR 221.55 that Norwest Bank Minneapolis, N.A., Minneapolis, Minnesota, with offices at Eighth Street and Marquette Avenue, Minneapolis, Minnesota, has failed to file its Annual Supplemental Certifications for the periods 1985 through 1990 as required. Therefore, Norwest Bank Minneapolis, N.A. has been removed from the Roster of Approved Trustees, pursuant to Public Law 100–710 (successor to Pub. L. 89–346).

This Notice shall become effective on August 28, 1990.

By Order of the Maritime Administrator.

Dated: August 22, 1990.

Joel C. Richard,

Assistant Secretary.

[FR Doc. 90–20162 Filed 8–27–90; 8:45 am]

BILLING CODE 4910–81–M

National Highway Traffic Safety Administration

Rear Seat Lap/Shoulder Belt Retrofit Kits; Request for Information

SUMMARY: The purpose of this Notice is to update information received from vehicle manufacturers in January 1989 in response to a previous agency request for information (53 FR 51621—December 22, 1988) on the current availability, future availability and cost of rear seat lap/shoulder belt retrofit kits. The information obtained in response to this notice will be used by NHTSA in its review of rear seat occupant protection issues.

DATES: Comments must be received on or before October 12, 1990.

ADDRESSES: Comments should be submitted to Deborah Parker, Director, Special Projects Staff, Rulemaking, NRM–01.01, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Lillvian Jones-Bixler, Special Projects Staff, NRM–01.01, Room 5320, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Telephone (202) 366–4929.

SUPPLEMENTARY INFORMATION: Previous information received from motor vehicle manufacturers on the availability and cost of rear seat lap/shoulder belt retrofit kits was published in a report entitled "The Rear Seat Lap/Shoulder Belt Report To Congress," June 1989. Since that time, the agency has received many inquires on the availability and installation of rear seat lap/shoulder belts. It is the agency's desire to provide the most accurate data possible on the availability and cost of retrofit kits. Therefore the agency asks that motor vehicle manufacturers provide answers and comments to the following questions.

Current Availability of Retrofit Kits

1. Please list by make, model and model year the vehicles for which these kit are available.

2. Please list dates when you began offering these retrofit kits to your dealerships.

3. Please describe the types of retrofit kits you have available by including such information as: Are the belts in the retrofit kits retractable; do you offer retrofit kits which have belts color coded to the interior of the vehicles; are the retrofit kits equipped with a separate shoulder belt assembly or a shoulder and a lap belt assembly?

4. How many retrofit kits did you sell during Calendar Year 1989? During Calendar Year 1990 to date? Have you had orders that you could not fill? If so, why not?

5. Have any of your rear seat lap/shoulder belt retrofit systems been laboratory tested to determine their effectiveness?

6. Has your company made any efforts to inform the general public of the availability of rear seat lap/shoulder belt retrofit kits? If so, what have you done?

Future Availability of Retrofit Kits

7. For those vehicles for which you do not currently provide retrofit kits, are there any plans to do so? Please provide estimated dates by make, model and model year as to when you will provide retrofit kits for those vehicles.

8. Please indicate make, model and model year of vehicles for which you will not provide a rear seat lap/shoulder belt retrofit kit. Why will you not provide retrofit kits for these vehicles?

Distribution and Installation of Retrofit Kits

9. May dealerships or individuals order rear seat lap/shoulder belt retrofit kits from the seat belt manufacturers directly?

10. Once a dealer places an order for a rear seat lap/shoulder belt retrofit kit what is the average delivery time to the dealership?

11. Does your company provide rear seat lap/shoulder belts to other than new car dealerships (*e.g.*, used car dealerships or service stations) if requested? If not, why not?

12. Do you provide information to your delaerships on how to retrofit vehicles with rear seat lap/shoulder belts without being requested to do so? If not, do you provide this information upon request?

13. Has your company ever received any comments from the dealers or consumers on the ease or difficulty of the installation or use of the retrofit belts? If so, what were they?

14. Are copies of installation instructions available to individual purchasers of retrofit kits?

15. Has your company received any consumer complaints on the unavailability of rear seat lap/shoulder belt retrofit kits? How many complaints and of what nature?

16. What is the manufacturer's suggested retail price for rear seat lap/shoulder belt retrofit kits, by make, model, and model year?

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including

purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address shown in the **ADDRESSES** heading at the beginning of this notice. A request for confidentiality should be accompanied by a cover leter setting forth the information specified in the agency's confidential business information regulation, 49 CFR part 512.

Issued on: August 23, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90-20272 Filed 8-27-90; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Sweetwater Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Sweetwater Federal Savings and Loan Association, Rock Springs, Wyoming, Docket No. 3557, on August 22, 1990.

By the Office of Thrift Supervision.

Dated: August 23, 1990.

Debra J. Ahearn,

Program Analyst.

[FR Doc. 90-20207 Filed 8-27-90; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-47]

Norwood Federal Savings Bank Chicago, IL; Final Action Approval of Conversion Application

Date: August 21, 1990.

Notice is hereby given that on August 21, 1990, the Director of the Office approved the application of Norwood Federal Savings Bank, Chicago, Illinois, for permission to convert to a federal stock form of organization pursuant to a voluntary supervisory conversion, and the simultaneous merger with Deerfield Federal Savings and Loan Association, Deerfield, Illinois.

By the Office of Thrift Supervision.

Debra J. Ahearn,

Program Analyst.

[FR Doc. 90-20208 Filed 8-27-90; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96-511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Patti Viers, VA Clearance Officer (723), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3172.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before September 27, 1990.

By direction of the Secretary.

Dated: August 21, 1990.

Kenneth H. Hoffmann,

Director, Policy and Standards Service.

Extension

1. Office of Facilities.
2. Supplement to SF 129, Solicitation Mailing List Application.
3. VA Form 08-6299.
4. The form is mailed with SF-129, Solicitation Mailing List Application, to prospective bidders on VA construction projects. The information is used by VA to compile a bidders' list.
5. Annually.
6. Businesses or other for-profit; Small businesses or organizations.
7. 3,000 responses.
8. ⅙ hour.
9. Not applicable.

[FR Doc. 90-20177 Filed 8-27-90; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96-511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Patti Viers, VA Clearance Officer (723), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3172.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before September 27, 1990.

Dated: August 17, 1990.

By direction of the Secretary.

Kenneth H. Hoffman,

Director, Policy and Standards Service.

Extension

1. Office of Information Resources Plans and Policies.
2. Request to Correspondent for Identifying Information.
3. Form Letter 70-2.
4. The form letter is used to obtain additional information from a correspondent when the incoming correspondence does not provide

sufficient or accurate information to identify a specific veteran. Failure to obtain this information will prevent the VA from taking further action on the correspondence.

5. On occasion.
6. Individuals or households.
7. 50,000 responses.
8. 1/12 hour.
9. Not applicable.

[FR Doc. 90-20178 Filed 8-27-90; 8:45 am]
BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96-511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-2744. Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316. Please do not send applications for benefits to the above addressees.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before September 27, 1990.

Dated: August 17, 1990.

By direction of the Secretary.

Kenneth H. Hoffmann,

Director, Policy and Standards Service.

Extension

1. Veterans Benefits Administration.
2. Request for Armed Forces Separation Records.
3. Form Letter 21-80e.
4. The form letter is used to request additional military service information from veterans. The information is used to verify military service and eligibility for VA benefits.
5. On occasion.
6. Individuals or households.
7. 102,000 responses.
8. 1/6 hour.
9. Not applicable.

[FR Doc. 90-20179 Filed 8-27-90; 8:45 am]
BILLING CODE 8320-01-M

Medical Research Service Merit Review Boards; Meetings

The Department of Veterans Affairs gives notice under the Federal Advisory Committee Act, 5 U.S.C. App., of the meetings of the following Federal Advisory Committees.

Merit Review Board for	Date	Time	Location
Hematology	September 17, 1990	8 a.m. to 5 p.m.	Radisson.[1]
Infectious Diseases	September 26, 1990	6 p.m. to 10 p.m.	Radisson.
Do	September 27, 1990	8 p.m. to 5 p.m.	
Do	September 28, 1990	do	
Gastroenterology	October 1, 1990	do	Radisson.
Do	October 2, 1990	do	
Cardiovascular Studies	October 2, 1990	do	Radisson.
Do	October 3, 1990	do	
Nephrology	October 4, 1990	8 a.m. to 5 p.m.	
Do	October 5, 1990	do	
Respiration	October 7, 1990	do	Radisson.
Do	October 8, 1990 8 a.m. to 5p.m.		
Surgery	October 7, 1990	do	San Francisco.[2]
Oncology	October 9, 1990	do	Radisson.
Do	October 10, 1990	do	
Alcoholism and Drug Dependence	October 11, 1990	do	Radisson.
Neurobiology	October 17, 1990	do	Radisson.
Do	October 18, 1990	do	
Do	October 19, 1990	do	
Immunology	October 18, 1990	do	Radisson.
Do	October 19, 1990	do	
Endocrinology	October 22, 1990	8 a.m. to 5 p.m.	Radisson.
Do	October 23, 1990	do	
Mental Health and Behavioral Studies	October 22, 1990	do	Radisson.
Do	October 23, 1990	do	
	October 24, 1990	do	
Basic Sciences	October 26, 1990	do	Radisson.
Do	October 27, 1990	do	

[1] Radisson Park Terrace Hotel, 1515 Rhode Island Avenue, NW., Washington, DC 20005
[2] San Francisco Hilton, 1 Hilton Square, San Francisco, CA 94102-2189

These meetings will be for the purpose of evaluating the scientific merit of research conducted in each specialty by Department of Veterans Affairs (VA) investigators working in VA Medical Centers and Clinics.

These meetings will be open to the public to the seating capacity of the rooms at the start of each meeting to discuss the general status of the program. All of the Merit Review Board meetings will be closed to the public after approximately one-half hour from the start, for the review, discussion and

evaluation of initial and renewal projects.

The closed portion of the meeting involves: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols, and similar documents. During this portion of the meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing portions of these meetings is in accordance with 5 U.S.C., 552b(c) (6) and (9)(B). Because of the limited seating capacity of the rooms, those who plan to attend should contact Dr. LeRoy Frey, Chief, Program Review Division, Medical Research Service, Department of Veterans Affairs, Washington, DC, (202) 233–5065 at least five days prior to each meeting. Minutes of the meetings and rosters of the members of the Boards may be obtained from this source.

Dated: August 21, 1990.

By direction of the Secretary.

Laurence M. Christman,

Executive Assistant.

[FR Doc. 90–20180 Filed 8–27–90; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 167
Tuesday, August 28, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

INTERNATIONAL TRADE COMMISSION

Emergency Notice

[USITC SE-90-18A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 55 FR 33215—dated August 14, 1990.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:30 a.m., Tuesday, August 21, 1990.

AMENDMENT TO THE AGENDA: 5. Addition of Inv. No. 701–TA–303 (P) (Certain Sodium Sulfur Chemical Compounds from Turkey).

In conformity with 19 C.F.R. 201.37(b), Commissioners Brunsdale, Lodwick, Rohr, and Newquist determined that Commission business required the change in subject matter of the meeting on August 21, 1990 by an addition to Agenda Item 5., and affirmed that no earlier announcement of the addition to the agenda was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252–1000.

Dated: August 21, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–20370 Filed 8–24–90; 11:27 am]

BILLING CODE 7020–02–M

INTERNATIONAL TRADE COMMISSION

[USITC SE–90–20]

TIME AND DATE: Wednesday, September 5, 1990 at 10:30 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and Complaints.
5. Inv. Nos. 731–TA–448–450 (F) (Sweaters Wholly or in Chief Weight of Manmade Fibers from Hong Kong, The Republic of Korea, and Taiwan)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252–1000.

Dated: August 22, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–28371 Filed 8–24–90; 11:27 am]

BILLING CODE 7020–02–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of August 27, September 3, 10, and 17, 1990.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of August 27

Thursday, August 30

10:30 a.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of September 3 (Tentative)

There are no meetings scheduled for the week of September 3.

Week of September 10 (Tentative)

There are no meetings scheduled for the week of September 10.

Week of September 17 (Tentative)

Friday, September 21

11:30 a.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings call (Recording)—(301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

Dated: August 23, 1990.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 90–20414 Filed 8–24–90; 2:10 pm]

BILLING CODE 7590–01–M

federal register

Tuesday
August 28, 1990

Part II

Environmental Protection Agency

Nonpoint Source Management Programs; Request for Comments on Draft Grants Guidance; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3823-9]

Nonpoint Source Management Programs Grants Guidance

AGENCY: Environmental Protection Agency.

ACTION: Request for comments on draft grants guidance.

SUMMARY: In 1987, Congress enacted section 319 of the Clean Water Act, which establishes a national program to control nonpoint sources of water pollution. Nonpoint source pollution is caused by rainfall or snowmelt moving over and through the ground and carrying natural and manmade pollutants into lakes, rivers, streams, wetlands, estuaries, other coastal waters, and ground water. Under section 319, States address this pollution by developing nonpoint source assessment reports; adopting management programs to control nonpoint source pollution; and implementing the management programs. Section 319 provides for the issuance by EPA of grants to States to assist them in implementing those management programs or portions of management programs that have been approved by EPA.

Congress appropriated the first section 319 grant funds in Fiscal Year (FY) 1990. EPA issued interim guidance including an interim allocation formula for allocating the FY 1990 grant funds among the States as well as criteria, priorities and conditions for awarding the FY 1990 grants. Copies of this FY 1990 guidance are reprinted in Appendices A and B of this notice. EPA now intends to publish a final section 319 allocation formula and grants guidance governing section 319 grant awards in FY 91 and future years. This notice solicits comments on the final allocation formula and guidance.

In this notice, EPA is offering the FY 1990 interim allocation formula and guidance republished in this notice as a starting point for soliciting comments on the final guidance. This notice also highlights particular questions and issues which either (1) are addressed in the interim guidance but warrant additional specific focus, or (2) address potential significant changes from the interim approach adopted in 1990.

DATES: Comments must be submitted on or before September 27, 1990.

ADDRESSES: Comments may be mailed to Stu Tuller, Assessment and Watershed Protection Division (WH-553), Office of Water, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The Agency requests that commenters submit their comments and supporting documentation in duplicate if possible. Commenters are also requested, where practicable, to organize their comments to correspond to the organization of issues in this notice. Copies of the comments and supporting documents will be available for review during normal business hours at the above address, in the East Tower, Room 829.

FOR FURTHER INFORMATION CONTACT: Stu Tuller, Assessment and Watershed Protection Division (WH-553), Office of Water, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-7085.

SUPPLEMENTARY INFORMATION:

I. Background

A. Nonpoint Source Pollution

During the first fifteen years of the national program to abate and control water pollution, EPA and the States have focused most of their water pollution control activities upon traditional "point sources", such as discharges through pipes from sewage treatment plants and industrial facilities. These point sources have been regulated by EPA and the States through the National Pollutant Discharge Elimination System (NPDES) permit program established by section 402 of the Clean Water Act. Discharge of dredged and fill materials into wetlands have also been regulated by the U.S. Army Corps of Engineers and EPA under section 404 of the Clean Water Act. In addition, the Federal government has awarded over fifty billion dollars in grants to help fund the construction of publicly owned sewage treatment plants. This Federal share of the capital costs of publicly owned sewage treatment facilities has been matched by large-scale State, local, and private sector investment in various treatment facilities for sewage and industrial discharges.

As a result of the above activities, the Nation has achieved greatly reduced pollutant loads from point source discharges and has made considerable progress in restoring and maintaining water quality. However, the gains in controlling point sources have not been equalled by gains in water quality. Recent studies and surveys by EPA (*e.g.*, the 1988 National Water Quality Inventory based upon States' section 305(b) reports) and by State water quality agencies (*e.g.*, America's Clean Water, published in 1985 by the Association of State and Interstate Water Pollution Control Administrators) indicate that the majority of the remaining water quality impairments in our nation's rivers, streams, lakes, estuaries, coastal waters and wetlands result from nonpoint source pollution and other diffuse sources (including stormwater discharges).

Nonpoint source pollution takes many forms. Some examples include:

1. Excess fertilizers, herbicides, and insecticides from agricultural lands and residential areas;

2. Oil, grease, and toxic chemicals from unchannelized urban runoff and energy production;

3. Sediment from small (less than five acres), improperly managed construction sites, cropland, grazing lands, forest lands, and eroding stream banks;

4. Salt and other metals and minerals from irrigation practices;

5. Acid drainage from abandoned mines (some of these may be point sources but are typically addressed as nonpoint sources because no owner can be found); and

6. Bacteria and nutrients from livestock (other than concentrated animal feeding operations, which are point sources), pet wastes, and faulty septic systems.

While various local, State and Federal programs have been developed and implemented in recent years to address nonpoint source pollution, the national water pollution effort has focused primarily on the control of point sources. In 1987, given the process achieved in controlling point sources, coupled with the growing national awareness of the increasingly significant influence of nonpoint source pollution on water quality, Congress amended the Clean Water Act to focus greater national efforts on nonpoint sources. The resulting amendments are discussed immediately below.

B. Statutory Framework to Control Nonpoint Sources

In the Water Quality Act of 1987, Congress amended section 101, "Declaration of Goals and Policy", to add the following fundamental principle:

> It is the national policy that programs for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so as to enable the goals of this Act to be met through the control of both point and nonpoint sources of pollution.

Congress also added a new Section 319, establishing a national framework for the development and implementation of State nonpoint source management programs.

Section 319(a) requires States to submit to EPA for approval nonpoint source assessment reports:

1. Identifying waters that are precluded by nonpoint sources from attaining or maintaining applicable water quality standards or the goals and requirements of the Clean Water Act;

2. Identifying the categories and subcategories of nonpoint sources or individual nonpoint sources contributing to the identified water quality programs;

3. Describing the process to identify the best management practices and measures to control the identified nonpoint sources and to reduce, to the maximum extent practicable, the level of pollution resulting from those sources; and

4. Identifying and describing existing State and local programs to control nonpoint source pollution. EPA is required to issue an assessment report for any State if the State fails to submit one.

Section 319(b) provides for the States' development of State nonpoint source management programs. These programs are to include:

1. An identification of the best management practices (BMPs) and measures that the State will undertake to reduce the pollutant loadings from each category, subcategory, or particular nonpoint source designated in the assessment;

2. An identification of nonregulatory and regulatory programs (including enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects) to achieve implementation of the BMPs;

3. A schedule containing annual milestones for program and BMP implementation at the earliest practicable date;

4. A State certification of adequate legal authority to implement its management program;

5. A listing of available sources of financial assistance for implementation of BMPs and the purposes for which the assistance will be used in each fiscal year; and

6. An identification of Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications or development projects for their effect on water quality, to determine whether they would be consistent with the State nonpoint source program.

State management programs are subject to EPA approval. EPA approval is required as a condition for obtaining section 319 grants for program implementation, as discussed below. EPA may, however, approve a portion of a management program and issue a grant for implementation of the approved portion.

Subsection 319(h) contains the basic authority authorizing EPA to make grants, subject to such terms and conditions as EPA considers appropriate, for the purpose of assisting States to implement their management programs. This subsection includes several important statutory limitations on the award and use of subsection 319(h) grant funds, including most importantly the following:

1. The Federal share of the cost of implementing a State management program may not exceed 60 percent. The remaining 40 percent must be funded by non-Federal sources.

2. Not more than 15 percent of the total grant funds may be awarded to a single State.

3. States may use these funds to provide financial assistance to persons only to the extent that such assistance is related to the costs of demonstration projects.

4. No grant may be made to a State which in the preceding year received a grant, unless EPA determines that the State made satisfactory progress in the preceding year in meeting the schedule specified by the State in its management program.

5. No grant may be made to a State unless the State agrees to maintain its nonpoint source control expenditures at the same level or above the level expended during the two years preceding the date of enactment of section 319 (i.e., during 1985 and 1986).

6. Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against activities and programs carried out with a subsection 319(h) grant may not exceed 10 percent of the grant, except that the administrative costs of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer programs are not subject to this limitation.

Subsection 319(h)(5) also sets forth certain priorities for funding. It provides that, in making grants for State nonpoint source management programs, EPA "may give priority", and "shall give consideration" in determining the Federal percentage share of the grant, to States that have implemented or propose to implement management programs which will:

1. Control particularly difficult or serious nonpoint source pollution problems, including, but not limited to, problems resulting from mining activities;

2. Implement innovative methods or practices for controlling nonpoint sources of pollution, including regulatory programs where EPA deems appropriate;

3. Control interstate nonpoint source pollution problems; and

4. Carry out ground water quality protection activities which EPA determines are part of a comprehensive nonpoint source pollution control program, including research, planning, ground water assessments, demonstration programs, enforcement, technical assistance, education, and training to protect ground water quality from nonpoint sources of pollution.

Subsection 319(i) authorizes grants for the purpose of assisting States to carry out groundwater quality protection activities which EPA determines will advance the State toward implementation of a comprehensive nonpoint source pollution control program. These activities include research, planning, groundwater assessments, demonstration programs, enforcement, technical assistance, education and training to protect the quality of groundwater and to prevent contamination of groundwater from nonpoint sources of pollution.

C. Program Implementation and Guidance to Date

Shortly after enactment of section 319, EPA issued in December 1987 a document entitled Nonpoint Source Guidance establishing the process for State submissions and EPA approval of State Nonpoint Assessment Reports and Management Programs. While development of assessments and management programs were to be the focus of initial efforts under section 319, the December 1987 guidance also contained brief guidance on the use of available funds from other EPA grants programs for nonpoint source program development and implementation (*e.g.*, section 205(j), section 201(g)(1)(B), and State Revolving Fund loans).

During the next two years, States and EPA focused primarily upon the development and approval of nonpoint source assessments and management programs. As a result of this effort, as of August 1, 1990, all States have approved assessments, and all States but one have approved management programs. 43 of the management programs are fully approved; portions of 12 others have also been approved.

On November 9, 1989, the President signed an appropriations bill which included $40 million of section 319 funds for grants to States and Indian Tribes. The appropriation Conference Report

directed EPA to develop State-by-State planning targets for FY 1990 funding based on interim criteria which reflect nonpoint source needs. These criteria were to reflect the extent and seriousness of nonpoint source problems, including information developed in the section 305(b) assessment report, population, cropland acreage, pasture/rangeland/forest acreage, wellhead protection areas, critical aquatic habitat, and other significant water use impacts identified in section 319d(a) assessments. The Conference Report also called for States to submit grant applications by January 16, 1990, and for EPA to make grant awards by March 1, 1990.

EPA applied the planning target criteria identified by Congress in the Conference Report and, on December 1, 1989, issued State-by-State initial planning targets for the award of FY 1990 nonpoint source program implementation grants, together with initial guidance for the issuance of those grants. The memorandum containing the planning targets and intitial guidance is republished in Appendix A of this notice. On December 15, 1989, EPA issued more detailed guidance for the award of FY 1990 nonpoint source source implementation grants. That guidance is republished in appendix B of this notice.

The fundamental approach outlined in EPA's two FY 1990 guidance memoranda applied the following principles:

1. Section 319 funds must be directed to effective, carefully designed nonpoint source programs that will achieve positive results in addressing nonpoint source pollution.

2. Improvement in water quality and protection of high-quality waters are the central goals of the section 319 nonpoint source control program. Demonstrated results in water-quality improvement and protection are vitally important to the long-term credibility of the nonpoint source control program in general and the section 319 grants program in particular.

3. To achieve these goals, the initial planning targets established through the allocation formula must not be regarded as entitlements. The targets should be used as only the beginning points of a process that will lead to the most effective award of section 319 funds within each of EPA's ten Regions. The actual grant awards should be based upon States' relative willingness and ability to use section 319 funds effectively, in accordance with national regional and State priorities arrived at through an open and rational process and in compliance with a management criteria established in EPA's guidance. Thus States may receive more or less than their initial planning targets as appropriate. However, States should generally receive at least 50 percent of their initial planning targets to establish, maintain or strengthen their nonpoint source programs.

4. Section 319 grants should be used to support State nonpoint source program implementation activities which will provide for both short-term and long-term results. Consequently, section 319 grant funds should be directed to balanced State work programs that provide for both (1) the improvement or protection of the quality of particular waterbodies through the implementation of specific watershed projects and (2) the institutionalization of long-term statewide NPS management programs through the hiring of State and local NPS staff and establishment of statewide support activities such as enforcement, monitoring for BMP or NPS program effectiveness, technical assistance, education and technology transfer.

The FY 1990 guidance also contained considerable discussion of criteria, priorities and conditions for grants issuance, as well as information on management and oversight of these grants after issuance, and grants to Indian Tribes. For more detailed information, please read Appendices A and B, which contain complete copies of the two guidances.

In the guidance, EPA provided for the award of all of the FY 1990 grants under section 319(h), rather than the allocation of a fixed percentage for award under section 319(i). However, to assure that ground-water effects of nonpoint source pollution were also addressed, EPA established a separate ground-water planning target, as a separate element within the general section 319(h) planning targets.

An additional aspect of the FY 1990 grants guidance was EPA's decision to establish two 5 percent reserves from the total amount of grants funds available nationally. The first of these reserves is authorized by section 319(n) of the Clean Water Act, which provides that "not less than 5 percent" of the section 319 grant funds "shall be available" to maintain personnel levels at EPA which are adequate to carry out section 319.

The second 5 percent reserve was established by EPA to provide special national awards to States that had demonstrated a historical commitment to addressing all significant sources of nonpoint source pollution and which had fully approved nonpoint source management programs. An EPA awards panel consisting of both Headquarters and Regional personnel was established to select the States to receive these awards. Please note that the initial planning targets issued in the attached December 1, 1989, memorandum (appendix A to this notice) did not reflect the subsequent 5 percent reserve for national awards that were subsequently announced on December 15, 1989 (appendix B to this notice). The reservation was achieved by reducing each planning target listed in the December 1, 1989, memorandum by 5 percent.

Subsequent to the issuance of the guidance, EPA has awarded virtually all of the section 319 grants, including the 5 percent reserved for national awards. The process was difficult for many States, as they had very little time to move from program development to program implementation. States did, however, succeed in developing and submitting grant applications that were of sufficient quality to be funded by EPA in a timely manner.

II. Issues

For FY 1990, EPA operated under the very tight deadlines imposed by Congress to issue the FY 1990 grants. Therefore, EPA developed the FY 1990 interim allocation formula and guidance with minimal opportunity for public input. Nonetheless, EPA has found the FY 1990 guidance to be workable and effective in achieving progress towards the section 319 goals and objectives. Consequently, EPA has chosen to consider the FY 1990 allocation formula and guidance as appropriate starting points for soliciting public comments on a final allocation formula and final grants guidance.

EPA is aware of questions and differing views about various aspects of the allocation formula and guidance and wishes to encourage full discussion of all issues of concern. Therefore, in addition to republishing the FY 1990 allocation formula and guidance as a basis for comment, EPA is including in this notice a set of issues and questions which either (1) the public has expressed interest in, or (2) EPA wishes to explore in greater detail. A brief discussion of these issues and questions follows. EPA welcomes public comments on each of these issues and questions, as well as any other which the public wishes to bring to EPA's attention. To facilitate our review of public comments, we request that commenters organize their comments, to the extent practicable, consistent with the organization of these issues and questions below.

A. General approach

The amount of funds for section 319 grants appropriated by Congress in FY 1991 and succeeding years may under certain circumstances influence the general approach taken by EPA in awarding such funds. For example, if the amount appropriated were a limited one, EPA might elect not to award funds to every State with an approved management program but rather to target the funds to a selected number of demonstrations of innovative and broadly applicable approaches for solving widely occurring NPS pollution problems. EPA seeks comments on the relative merits of awarding some funds to every State or directing funds just to States who propose demonstrations of the most innovative and broadly applicable approaches.

B. Allocation formula

As discussed previously, for FY 1990, EPA used the factors identified by Congress in the Conference Report to develop the allocation formula. These factors were: information developed in the section 305(b) assessment report (National Water Quality Inventory, 1988 Draft, 10/89), population, cropland acreage, pasture/rangeland/forest acreage, wellhead protection areas, critical aquatic habitats, and other significant water use impacts identified in section 319(a) assessments. EPA considered and weighed these factors to achieve what in EPA's judgment was a reasonable balance of nonpoint source needs and concerns across the country. Nonetheless, the allocation formula elicited considerable public interest and concern, in the form of letters and phone calls to EPA's Regional and Headquarters offices.

Residents and officials from several sparsely populated States have argued that cropland and rangeland acreage should predominate as factors, and that population should not be considered a factor at all, as it does not describe the extent of nonpoint source pollution. Others from some more heavily populated States have argued, in contrast, that large numbers of people are affected by nonpoint sources in these States and that the allocation formula yielded an unfairly small allocation to these States. In addition, coastal States point to the fact that recent population forecasts project continuing population shifts to coastal areas and that such population increases pose major threats to sensitive coastal waters from increased nonpoint source pollution. Still others have suggested that agricultural NPS factors be reduced or eliminated since U.S. Department of Agriculture programs already provide major funding for agricultural best management practices (BMPs).

EPA requests comments on the option of continuing the use of the allocation formula used in FY 1990 and continuing to use the same data sources to apply the formula (with the possible exception of updating certain data sources where more recent information is available). Commenters should note that, as in FY 1990, the allocation formula would not be used to determine final grant awards, but only to determine initial planning targets to be used as a base for grants planning and application purposes. As in FY 1990, the Regions would determine the final grant awards based on the States' relative ability and willingness to use the available grant funds to implement their nonpoint source programs effecitvely.

EPA solicits comments on the allocation formula generally, and specifically on the following questions:

1. What additional factors should be added to the formula? What data bases are available to determine State-by-State allocations based upon these factors? Do these data bases contain comparable data for all States? Are these data bases easy to access and capable of being used rapidly and at a reasonable cost?

2. What weighting should be applied to the factors used by EPA in FY 1990 or to additional recommended factors? (For example, should special weighting be given to particular types of impacts upon beneficial uses, such as shellfish bed or beach closures, or impairment of primary recreation waters?)

3. Are these existing data bases which are superior to or more up-to-date than the data bases used by EPA in FY 1990 to support the 1990 factors? How can they be accessed? What are the costs of accessing and applying them?

4. Are there critical aquatic habitat factors that should be considered other than or in addition to wetlands acreage? What data bases are available to support their use?

5. Should the approved State assessments and management programs be used as additional or alternate bases for determining State-by-State allocations? One alternative is to allocate a baseline amount to each State with an additional amount based on needs identified in each State's approved NPS assessment report. Do the assessments and management programs contain sufficient information to allow implementation of these ideas?

6. What influence, if any, should the existence of the stormwater permit program have upon consideration of urban runoff in the nonpoint source allocation formula?

7. Should contaminated sediments be considered a nonpoint source impact and factored into the formula? Are adequate data bases available to do so?

8. Should the impact of atmospheric deposition be accounted for in the formula? Are adequate data bases available to do so?

C. Ground water element

As mentioned previously, section 319(i) authorizes a separate grant for the purpose of assisting States to carry out ground water quality protection activities which EPA determines will advance the State toward implementation of a comprehensive nonpoint source pollution control program. These activities include research, planning, ground water assessments, demonstration programs, enforcement, technical assistance, education and training to protect the quality of ground water and to prevent contamination of ground water from nonpoint sources of pollution. In FY 1990, EPA chose to award all appropriated section 319 funds under section 319(h), and chose to address the ground water impacts of nonpoint sources through the creation of a ground water element within the section 319(h) grant. EPA estimates that approximately 30 percent of the section 319(h) grants in FY 1990 were awarded to ground water protection activities, although the ground water elements established in the December 1, 1989, guidance (appendix A) amounted to only 11 percent of the initial planning targets.

EPA requests comment on whether: (1) The FY 1990 approach should be continued; (2) a specific portion of section 319 grant funds should be set aside to be issued as section 319(i) grants; (3) neither a separate ground water element nor a separate section 319(i) grant should be provided. If a ground water element or section 319(i) grant is provided, what percentage of the section 319 funds should be devoted to that purpose?

D. Base programs and performance-based grants

The FY 1990 guidance emphasized that section 319 grants should not be regarded as entitlements and that a State's final grant award should be based on its willingness and ability to implement its nonpoint source program effectively. While the guidance stated that States not submitting approvable work programs should not receive any section 319(h) funds, the guidance did

say that States submitting approvable work programs should receive at least a 50% grant to establish or strengthen their NPS management programs. Thus, effectively, 50% of the planning target was a base grant (provided certain minimum criteria were met), while the remainder became part of a Region-wide grant reserve to be distributed to States within the Region based on past and present performance.

EPA solicits comments on this approach. Particular questions of interest include the following:

1. Should there continue to be both a base percentage and a performance-based percentage? If so, what should the relative percentages be?

2. Should EPA continue to use the procedure of dividing all of the grant funds into 100% planning targets and soliciting grant proposals at 50%, 100% and 150% (or other appropriate percentages) of these planning targets? Or, rather, should EPA designate a base amount to each State for basic program implementation, and give the remainder to the Regions as one lump sum to be distributed by the Region on the basis of past performance and the quality of proposed grant work program activities?

E. Balanced State programs: statewide programs vs. watershed projects

The FY 1990 guidance emphasized the dual need to ensure that State nonpoint source management program implementation activities establish a pattern that will provide for both short-term and long-term results. Consequently, the guidance called for balanced work programs that provide for both (1) the improvement/preservation of the quality of particular impaired or threatened waterbodies through the implementation of watershed projects, and (2) the institutionalization of long-term statewide nonpoint source management programs that encompass a broad range of activities (including non-regulatory and regulatory programs for enforcement, monitoring, technical assistance, financial assistance, education, training, technology transfer, and watershed project management and oversight). The guidance stated that, as a general rule, 25–50% of the section 319 funds should be used to hire State and local nonpoint source staff and to establish a broad range of statewide activities.

Should EPA continue this "balanced" approach? In FY 1990, some States have emphasized watershed projects, while many others have focused upon statewide or general activities. Some of the arguments that favor watershed projects are that they achieve real change in the quality of specific waterbodies; that they enable EPA and the States to demonstrate that positive nonpoint source control results can be achieved; and that they avoid enhancing State and local bureaucracies at the expense of tangible water quality protection. Others favoring increased emphasis on statewide program support include the need to develop broadly applicable regulatory and non-regulatory tools on a state-wide level to achieve broad changes in public awareness, commitment and activity bearing on nonpoint source pollution prevention and control, and the fact that the amount of Federal funds currently available for actual BMP implementation is insufficient to achieve much progress alone, requiring a strong associated statewide program.

This issue is extremely important to the future of nonpoint source control and to EPA's role in the control effort. EPA solicits comments on the pros and cons of either the balanced approach or approaches that emphasize primarily watershed approaches or statewide approaches. Some specific questions on which EPA seeks comment are:

1. Should States be expected to gradually institutionalize their nonpoint source programs so as to be capable of continued effective operation with or without Federal financial assistance? If so, how should the guidance be structured to work for that result over a period of a few years? (For example, should there be a sliding scale of base program support reducing from 50% to 0% of the planning target over the next several years?)

2. In seeking to promote statewide programs such as public education and technical assistance, how can EPA assure that section 319 grant funds are being used effectively to abate NPS pollution (i.e., funds are targeted to priority NPS issues/problems identified by the State in its approved NPS assessment and likely to achieve identifiable environmental results)?

3. Do specific watershed projects using limited Federal funds under section 319 offer a real prospect for effecting significant and broad water quality improvement or protection in the foreseeable future? With respect to watershed projects:

a. Does the utility of watershed projects lie in effective transfer of their results to elsewhere in the State or the country? If so, what emphasis should the guidance place on statewide or national public information/education activities as a condition for funding of watershed projects? (For example, should the guidance require a statewide or region-wide information/education component for every project? Should the guidance require the State to prepare a summary of every project for inclusion in a national BMP clearinghouse?)

b. If specific watershed projects do not offer sufficient prospects for achieving widespread water quality improvement or protection, what change in emphasis would be appropriate for the grants guidance?

c. Would water quality improvement or protection be enhanced best by focusing on a smaller number of major nonpoint source control demonstration projects with significant statewide and national information/education activity built into each project, or by a larger number of smaller projects that provide "seed money" to promote widespread proliferation of nonpoint source control activities?

4. If the guidance continues to emphasize "institutionalization" of statewide programs, should the funding of State staff be conditioned upon detailed, clearly-defined program and project outputs for each supported staff member to assure that the funds are used to implement specific aspects of the approved nonpoint source management program? Alternatively, should section 319 grants be designed to fund only specific projects and programs, rather than "personnel"?

F. National priorities for funding

The FY 1990 guidance identified a rather extensive list of national priorities for section 319 funding. On one hand, this list may be so broad as to have little utility in establishing priorities. On the other hand, it does provide some definition to the grants development and approval process, while leaving considerable flexibility to regions and States to develop projects that reflect State priorities. EPA solicits comments on the specific priorities set forth in the FY 1990 guidance. Should some of them be deleted? Should others be added? Should certain priorities be ranked higher than others? Should any of the priorities be required for all grants? In addition, EPA asks commenters to consider the following issues that bear on priorities to achieve water quality results:

1. *Annual guidance:* As stated, the list of national priorities is broad. Both the needs and opportunities for specific nonpoint source actions and activities are likely to change from year to year. Should EPA issue abbreviated annual nonpoint source grants guidance setting funding priorities for the following fiscal year? This is a practice which has been followed with respect to other EPA grant programs (*e.g.*, Section 106 State Program Grants) and would provide a

means of addressing specific issues which (1) assume particular significance because of ongoing water quality assessments; (2) are highlighted by actions or decisions of related programs (*e.g.*, promulgation of stormwater regulations); or (3) emerge from ongoing evaluations of Federal, State and local nonpoint source programs.

Furthermore, if annual program guidance is desirable, should EPA provide some type of follow-up activity to evaluate whether or not annual funding priorities are being followed? Two possibilities are periodic reporting by the States (semi-annually or quarterly) and/or mid-year evaluations.

2. *Nonpoint Sources Categories of National Concern:* Should EPA identify particular categories of nonpoint sources that are of special and widespread national significance warranting a national focus in the section 319 grants award process (*e.g.*, by requiring each State or each Region to devote a particular percentage of funds to these priority areas, or by setting aside a significant portion of the section 319 grant funds for national selection of demonstration projects or programs addressing these high-priority areas)? Examples of such priorities might be nutrient management on cropland; storage and land-application of animal waste; the use of buffer strips to protect riparian areas; the development of model programs to control urban runoff at the source in both developing and developed areas; and monitoring watershed projects to determine the effect of practices on water quality. EPA solicits comments both on the concept of focusing priorities in this manner and on appropriate subject areas warranting such priority.

3. *Statewide priorities:* EPA's review of nonpoint source assessments and management programs indicates that many States have not clearly identified their priority waterbodies requiring nonpoint source control. Such States are thus somewhat hampered in choosing which of many impaired or threatened waterbodies to focus on in conducting watershed protection projects. There is a risk that in such States, projects will be proposed for funding primarily based on local interest in conducting the project and on the viability of the specific project (both of which are valid and important factors in project selection), with relatively little regard for the relative significance, statewide priority and demonstration effect of the project.

EPA seeks comment on whether, as a condition of funding specific watershed projects, EPA should require that the State has developed a written list of high-priority waterbodies affected by nonpoint sources, in order of priority, to be agreed to by EPA prior to section 319 funding. If so, should the list be required to be incorporated into the State's nonpoint source management program or otherwise established after opportunity for public input? In addition, if this approach is used, should States be provided complete discretion in developing priorities, or should EPA establish criteria for priority setting? If the latter, what criteria would be appropriate? (EPA notes that priority-setting mechanisms already exist, such as section 303(d) of the CWA, and solicits comments on their utility in this regard.) Should the priorities be subject to EPA approval? Finally, if this approach is adopted as grants policy, would States be able to qualify for grants in FY 1991? If not, when would it be reasonable for such an approach to begin to be implemented?

EPA also seeks comment on whether and to what extent it would be advisable in such high-priority watersheds to use section 319 grant funds as a means to encourage considerably expedited, widespread adoption of the best practicable practices by all nonpoint sources impacting the watershed. If so, what types of State non-regulatory or regulatory activities should be promoted and supported? Should grants be targetted to innovative State or local programs that expedite widespread adoption of BMPs through the establishment of baseline practicable controls (on a class-wide or source-by-source basis) for classes of facilities in these priority watersheds?

Finally, EPA notes the increasing use by States and local jurisdictions of various regulatory tools such as anti-degradation, water quality standards, total maximum daily loads (TMDLs, including load allocations for nonpoint sources), or permits authorized by State or local authorities to (1) control water pollution at the source; (2) protect clean water from degradation resulting from urban growth; and (3) assure that public investment in the control of point and nonpoint sources to protect watersheds is not undermined by the subsequent creation of new sources of pollution. EPA seeks comment on the extent to which the section 319 grant funds should be used to support these activities, particularly in coastal areas, lake watersheds and other highly threatened priority areas.

4. *Prevention vs remediation control:* Many experts have expressed the opinion that the most practical way to address NPS pollution is to prevent it from occurring in the first place. Such persons argue that NPS pollution, by its very nature, is so diffuse that control systems are unacceptably high in cost, often difficult to maintain over the long term and subject to wide variation in pollutant removal efficiencies. Such persons point to developing urban and coastal areas or to high-quality headwater streams and argue that NPS program resources should be concentrated on preventing NPS pollution in such settings. Others argue that one can't simply walk away from already-impaired water and ecological resources; that control systems can be designed to produce acceptable efficiencies in both the short and long terms; and that remediation and restorative techniques are available to improve water quality and reclaim desired uses and should receive a major portion of NPS funding. EPA seeks comment on the relative emphasis which should be put on prevention and remediation/control in the section 319 grant guidance.

5. *Low priorities:* Some commenters on the nonpoint source program have suggested that certain nonpoint source control activities should be regarded as low-priority for purposes of section 319 funding. This comment has been made primarily in the context of control activities that are already Federally assisted or regulated by other Federal programs. These persons believe that EPA should focus the limited section 319 funds on high-priority programs and projects that do not otherwise receive much Federal regulatory or financial support and place less emphasis, with respect to section 319 funding, on nonpoint source control activities that are assisted or regulated by other Federal programs. Candidates for lower priority funding that have been suggested include:

(a) Agricultural activities, which receive substantial support through the U.S. Department of Agriculture's Water Quality Initiative;

(b) Estuaries that receive support through the National Estuaries Program implemented by EPA under section 320 of the Clean Water Act (we note, however, that section 320 provides funding primarily for planning activities rather than for implementation);

(c) Underground storage tanks, landfills, stormwater discharges and confined animal feeding operations, which are addressed by other national EPA programs; and

(d) Sources addressed by the Great Lakes National Program, the Clean Lakes Program and the Chesapeake Bay Program, all of which receive designated funding under the Clean Water Act.

EPA solicits comments on whether such de-emphasis of section 319 funding is warranted and, if so, what activities should be assigned low priority.

6. *The relationship of sections 319 and 402 in addressing pollution from urban runoff:* The preceding discussion on deemphasizing, with respect to section 319 funding, activities that are assisted or regulated by other Federal programs, raises the issue of the relationship between sections 319 and 402 of the CWA in addressing pollution from urban runoff. Historically, the NPDES permit program for point sources and the nonpoint source program have overlapped with respect to certain diffuse sources such as resource extraction and waste disposal. Stormwater permit regulations issued under section 402(p) establish permit requirements for additional classes of sources heretofore widely addressed by regulatory authorities as nonpoint sources: separate sewers conveying urban runoff.

The FY 1990 section 319 grants guidance included in this notice as Attachment A to Appendix B identified urban storm water that is not regulated by NPDES permits as a high priority for funding under section 319, thereby discouraging grants to control urban storm water that is regulated by NPDES permits. Implementation of the grants process in FY 1990 indicated considerable confusion as to the type of urban runoff control activities for which section 319 funding is appropriate. EPA intends to clearer direction on this issue in the final grants guidance.

Some aspects of this issue are fairly clear, whereas others are more ambiguous. For example, some activities, such as States' issuances of NPDES permits to control stormwater, or stormwater permittees' construction of end-of-pipe treatment facilities, seem particularly inappropriate candidates for nonpoint source funding under section 319. Activities such as information/education and control efforts directed at the generation of urban runoff prior to channelization (*e.g.*, application of fertilizers and pesticides in urban settings, automobile oil changing and handling practices, and urban development activities) seem particularly appropriate for assistance under section 319. Other activities that help control water pollution caused by urban runoff include:

a. Implementation of State non-NPDES programs that address the control of urban runoff that currently is not, but may in the future become, subject to NPDES permitting requirements.) These may include strategies and technical activities that will assist the State to develop future permit requirements for such runoff.);

b. BMPs to control runoff prior to entry into the stormwater system;

c. Development and promulgation of State and local ordinances for sediment and erosion control and for stormwater quality control;

d. Urban runoff BMP technology transfer and training; and

e. Assessment of the nonpoint sources of pollutants that are conveyed into and discharged from stormwater systems.

EPA requests public comment on the appropriate role for section 319 funding with regard to these and other similar urban runoff control activities. (It should be noted that the types of activities identified in paragraphs b through e may be required in NPDES permits for some municipal separate storm sewer systems. Most importantly, EPA asks commenters to focus on approaches that best assure that the stormwater permit program and the nonpoint source control program, working together, effectively control urban runoff.

G. Additional Watershed Project Issues

1. *Potential limitation on demonstration projects:* Section 319(h)(7) limits cost-sharing with private individuals to "demonstration projects." Even when private cost-sharing is not involved, it is beneficial to focus section 319 funds upon projects that demonstrate technological, financial and regulatory approaches that can be used more broadly across the nation or within particular geographic areas. It may be beneficial to have more than one demonstration project address the same subject, provided that each project addresses unique factors not already being demonstrated elsewhere (*e.g.*, geologic, hydrologic or climatic factors that may affect BMP effectiveness or water quality results). Locally developed projects also have the benefit of making project results easily accessible to local communities. However, others would argue that to maximize the benefits afforded by the section 319 funds, it is also important to assure that needless duplication is avoided. A contrary view is that each demonstration should be a distinct demonstration of a fundamentally new or different technical or programmatic approach and not merely a standard BMP or resource management system demonstrated on slightly different soils or in a slightly different setting. According to this view, once the approach is demonstrated, only outreach activities to promote the approach should be supported. EPA solicits comments on whether the national guidance, or EPA activities carried out under the guidance, should be designed to limit the incidence of similar demonstration projects and, if so, under what circumstances.

2. *Potential limits on cost-sharing.* As discussed in the preceding paragraph, section 319 funds may be used to share costs with private individuals for demonstration projects. USDA also administers several programs that provide cost-sharing funds to farmers and ranchers. USDA cost-share programs generally have limitations upon both the percentage share that USDA may contribute to a particular project (usually between 50% and 75% of the BMP implementation cost) and the total amount that USDA may contribute (generally $3,500 in a single year). Section 319 places no such limits, requiring only that the entire 319 funds awarded to a State must be matched with non-Federal funds on a statewide at a 60/40 Federal/non-Federal ratio.

EPA solicits comments on whether the section 319 grants guidance should place percentage or dollar limitations on cost-share funds. If so, should the limitations vary depending on the practice? (*E.g.*, should a larger dollar limitation be used in the case of expensive animal waste lagoons than for other agricultural practices?)

On a related issue, EPA solicits comments on whether it should set a limit on the combined contribution of Federal dollars from all Federal sources (section 319, USDA programs, DOI programs, *etc.*) to the implementation of any given best management practice. Such a limitation may ensure more effective use of limited Federal dollars and encourage greater commitment to adoption and long-term maintenance of the practice by the landowner since she has more investment in it. On the other hand, the absence of such a limitation may allow water quality managers to better target NPS controls by combining funding sources and providing higher cost-share for high-priority watersheds or for high-priority sources within a watershed. EPA seeks comments on whether EPA should ensure that the combined contribution of Federal dollars does not exceed certain limitations.

3. *Disseminating information on demonstration projects.* A demonstration project is effective as a demonstration only to the extent that its results are well-publicized so that the project may be replicated elsewhere. EPA solicits comments on whether, as a condition of funding specific watershed projects, EPA should require that the project plan include a commitment by the State (with specific outputs, milestones, and identified sources of

funding) to disseminate the information learned from the project on a statewide and, if applicable, regionwide or nationwide basis, to promote the replication of successful approaches. Should EPA also routinely require in such a grant condition that the grantee conduct follow-up evaluation of the effectiveness of the technology transfer activities and modification of the activities if implementation does not occur in other appropriate areas?

4. *Monitoring.* The FY 1990 guidance makes monitoring of watershed projects for water quality results a high priority. EPA believes that effective monitoring programs are necessary both to determine whether projects, particularly demonstration projects, are effective, and to demonstrate overall the effectiveness of the national nonpoint source control program. Some States and others have expressed concern, however, that funds spent on monitoring reduces funds available for BMPs or other control activities. Others have expressed concern that it may take many years even for an effective project to achieve measurable water quality results, and that reliance on surrogate interim measures is a better use of limited resources. EPA requests comments on the pros and cons of monitoring; on whether monitoring should be made a condition of funding specific watershed projects; and on the pros and cons of including effectiveness evaluation of the project/program as a fundable activity in all grants. In particular, suggestions on how to target monitoring resources effectively are encouraged. Finally, EPA solicits information on the costs of monitoring NPS projects conducted by commenters.

H. Inter-Agency Coordination

Good coordination among all relevant Federal, State, and local organizations is essential to the success of both State-wide programs and local watershed projects. The importance of such coordination has been recognized, for example, in the U.S. Department of Agriculture's Water Quality Initiative guidance for FY 1991, which promotes consistency between USDA projects and EPA programs, between State agricultural and water quality agencies, and the involvement of conservation districts and other interested local organizations. For section 319 nonpoint source programs, broad coordination is even more important, yet also very difficult, since nonpoint source pollution prevention and control touches on many sectors of the national economy (agriculture, silviculture, mining, urban development, power generation, flood control, etc.) And hence involves a broad variety of Federal, State and local agencies and interest groups. For this reason, section 319(a)(1)(C) specifically directs that State assessment reports must describe the process, "including intergovernmental coordination and public participation", for identifying BMPs and measures to control pollution resulting from each category of nonpoint sources. Interagency coordination, including coordination with local government agencies and agencies outside the traditional water quality arena, may be even more important when seeking to implement nonpoint source programs directed at protecting watersheds from future impacts.

EPA solicits comments on how best to promote broad-based coordination and ensure appropriate public input in the section 319 grants process. Should EPA mandate any particular processes for inter-agency coordination or for public participation as conditions of receiving a grant? Alternatively, should EPA heighten the funding priority placed upon programs and projects that meet certain minimum criteria for inter-agency coordination or public participation?

I. National Awards for Effective State Programs or High-Priority Programs or Projects

The FY 1990 guidance created a separate fund, consisting of five percent of the section 319 funds, for national awards to States that had demonstrated a historical commitment to addressing all significant sources of nonpoint source pollution and that had fully approved and effective nonpoint source management programs. This resulted in four States receiving awards of $250,000 and eight states receiving approximately $105,000 in addition to the section 319 grants awarded to them by EPA's Regional offices. These awards were intended to recognize State NPS programs with records of outstanding past performance and full program approval and to provide an incentive for outstanding performance in the future. Some persons have argued that because of the broad variation between the States in resource levels, types of NPS problems, and NPS experience and expertise, such an award system fails to recognize adequately truly outstanding achievements by some less experienced States.

EPA requests comments on whether some sort of national awards program, incentive program, or priority demonstration program, is warranted in the future. If some national awards process is desirable.

1. Should the awards be designed to reward States for historically good performance, or should they be designed to support meritorious future actions?

2. Should the awards be made for State nonpoint source management program implementation generally, or should they be made for particular statewide activities or local watershed projects that meet national criteria or address defined national priorities?

3. What criteria should be used for making the awards?

4. What process should be used to make the awards? Who should comprise the membership of the awards panel? What level of information should be provided to panel members to enable them to efficiently make information decisions in a timely manner?

5. Is full approval of a State's management program and appropriate criterion for award eligibility?

6. What percentage of the total grant budget should be reserved for the national awards process?

J. Satisfactory Progress

Section 319(h) prohibits grants to a State unless EPA determines that the State has made satisfactory progress in the preceding year in meeting the schedule specified in its management program. EPA solicits comments on the criteria that EPA should apply in determining whether a State's progress in meeting the schedule in its management program has been satisfactory.

Additionally, EPA seeks comments on the process by which EPA should determine whether or not a State's progress has been satisfactory. For example, should EPA rely primarily upon the annual State reports required by section 319(h)(11) or should EPA provide opportunity for further dialogue with the State through such vehicles as a mid-year evaluation?

Dated: August 18, 1990.

Robert Wayland,

Acting Assistant Administrator.

Appendix A—Planning Targets for FY 1990 Nonpoint Source Program Implementation Grants

Memorandum

Subject: Planning Targets for FY 1990 Nonpoint Source Program Implementation Grants.

From: LaJuana S. Wilcher, Assistant Administrator (WH–556).

To: Water Management Divisions Directors, Regions I–X.

On November 9, 1989, the President signed an appropriations bill which included $40 million for grants to States to implement nonpoint source (NPS) management programs in FY 1990 under section 319 of the Clean Water Act. Congress has stated that the criteria for establishing planning targets for

the award of these funds are to reflect nonpoint source needs. Consequently, we must ensure that the funds are directed to effective, high-quality NPS programs that will achieve positive results in addressing NPS pollution. In accordance with Congressional intent, the Regions should award all grants by March 1, 1990.

Attached are State-by-State initial planning targets for section 319 grants in FY 1990. I emphasize that these initial planning targets are not entitlements. Planning targets are transmitted by a Region to its States to provide a tentative funding amount on which the State develops its work program. In the context of these section 319 grants, the targets are to be used by States as planning tools to develop three incremental NPS grant work programs to be funded at 50%, 100%, and 150%, respectively, of these planning targets. In many cases, the planning targets will be modified prior to grant award. The actual amount of funding awarded will differ since the final award will depend on the demonstrated effectiveness to date of each State's NPS program and on other criteria identified in EPA's 1987 Nonpoint Source Guidance and in supplemental guidance which we will issue in December 1989.

Also attached is initial procedural guidance on issuing the section 319 grants. As mentioned, we will be issuing in December a detailed substantive guidance on the issuance of these grants, addressing subjects such as the availability of a grant where only a portion of a State's management program has been approved; the consequences resulting from a State's failure to submit an approvable grant work program by March 1, 1989; and the criteria to be used in deciding final grant awards. The guidance will supplement the December 1987 NPS Guidance.

I look forward to supporting your efforts in awarding funds for effective NPS programs. If you have any questions regarding the attached, please call Martha Prothro, Director of the Office of Water Regulations and Standards (8–382–5400). Your staff may contact Ed Richards (8–475–7314) for further details on the planning targets and the grant application process.

Attachment A—Planning Targets for FY 1990 Nonpoint Source Grants

Purpose

The purposes of this document are (1) to transmit State [1] 319(h) planning targets for FY 1990; (2) to describe the process for calculating those targets; and (3) to provide initial guidance on preparation of applications for FY 1990 319(h) grants. The Office of Water will issue substantive guidance governing the award, management and oversight of 319(h) grants in December 1989; that guidance will supplement and should be used in conjunction with the NPS Guidance of December 1987.

[1] In this memorandum, the term State includes the 50 States, the District of Columbia, and six territories. Guidance on funding of Indian Tribes will be included in the programmatic guidance which is to be issued in December (see schedule in section below).

Background

On November 9, 1990, the President signed an appropriations bill which included $40 million of section 319 funds for grants to States and Tribes. The appropriation language directs EPA to develop State-by-State planning targets for FY 1990 funding based on interim criteria which reflect nonpoint source needs. These criteria are to reflect the extent and seriousness of nonpoint source problems, as well as program effectiveness. Thus, section 319 grants are not to be seen as entitlements, but rather are to be awarded for effective NPS programs that address identified NPS control needs.

Congress further directed that EPA should seek State grant applications no later than January 16, 1990, that final NPS grant awards should be made to States with approved NPS programs no later than March 1, 1990, and that the awards are to be made in accordance with EPA's December 1987 NPS Guidance.

Planning Targets

The section 319 planning targets for FY 1990 are contained in attachment B to this appendix A. Again, those initial planning targets are not entitlements. Planning targets are used as initial goals to calculate a Regional 319 advice of allowance. (The sum of the planning targets of all States in a Region equals that Region's advice of allowance.) These targets are also transmitted by a Region to its States to provide a tentative funding amount on the basis of which the State develops its work program. In the context of these section 319 grants, the targets are to be used by States as planning tools to develop three incremental NPS grant work programs to be funded at 50%, 100%, and 150%, respectively, of these planning targets.

In all cases (or nearly all cases), the final grant award amount will not be the same as the planning target amount. First, the planning targets assume that all States have fully approved programs, which will almost certainly not be the case at the time of final grant awards. Second, the actual amount of funding awarded will differ since the final award will depend on the demonstrated effectiveness to date of each State's NPS program and on other criteria identified in the 1987 Nonpoint Source Guidance and in the forthcoming guidance that will be issued in December 1989.

To calculate these planning targets, we first subtracted from the $40 million total successive percentages of 1.55% and 3.568% which were required by operation of the Gramm-Rudman Act of 1987 and the 1990 appropriation act. We then subtracted two set-asides for Indian Tribes and for EPA stafffing pursuant to sections 518(f) and 319(n). (The adjustments under the Gramm-Rudman Act may be modified later this fiscal year.)

The remaining funds were then multiplied by the individual State percentages which were derived from the 319(h) NPS formula. These calculations resulted in the planning targets found in attachment B to this appendix A. Attachment B to this appendix A also list separate ground-water protection elements for each State. The purpose and basis for these elements is discussed below under the heading, "Special Considerations For Ground-Water Quality Protection".

The 319(h) NPS formula for FY 1990 is based on five categories of factors. These are: (1) Population density and growth; (2) an estimate of the extent of non-urban NPS problems; (3) wetlands acreage; (4) wellhead protection areas; and (5) a minimum amount for each State. A more detailed explanation of the formula is provided in attachment C to this appendix A.

In accordance with Congress' direction, the planning targets for FY 1990 were based upon interim criteria. The Office of Water will use a more formal process later this year to develop an NPS funding policy for FY 1991 and beyond.

Eligibility

To establish eligibility for 319(h) funds, a State must have received EPA approval of its NPS assessment and management program by January 4, 1990. If a State does not meet this deadline, it will not receive any FY 1990 319(h) funds. (The only exception will be where all elements of a State's management program except the public notice requirement are approvable by January 4, 1990, and completion of that element alone carries the State beyond the deadline.) EPA will distribute funds from that State's planning target to other States with approved management programs.

Regions should encourage States that do not have approved NPS management programs to continue to work to improve their programs so that they may be approved and grant funds may be made available for their implementation. Regions should also encourage States to modify fully or partially approved programs as appropriate to assure that the best possible work programs may be developed and considered for funding.

Funding Process for FY 1990

States with approved assessments and management programs should use their FY 1990 planning targets to begin development of grant work programs. By mid-December, States will receive programmatic guidance from EPA including specific Regional Office priorities and procedures that supplement national policies and the NPS Guidance of December 1987.

After the Regions receive the supplementary guidance and communicate it to the States, and after draft State work programs are received in mid-January, Regions should determine the dollar amount of each State's grant. The Region should transmit that figure along with the Region's comments on the draft work program to the State as the basis for preparing the final work program. The Region's comments should stress the importance of high quality in developing the final work program.

Due to the timing of the appropriation and our desire to begin implementation of NPS programs as rapidly as possible, the schedule for the funding process for this year is compressed. The basic schedule is as follows:

- November 30—OW transmits preliminary State planning targets, to the Regions
- Upon receipt of the targets, Regions communicate them to the States

- December 15—OW sends programmatic guidance on awarding and managing 319(h) grants to Regions which transmit this guidance to the States
- January 15—States submit FY 1990 319(h) grant applications
- January 15–March 1—Regions and States negotiate grant work programs
- March 1—Regions award 319(h) grants

Regional Action

Implement this guidance, Regions should take the following actions:

- Transmit this memorandum to all potential grantees (States, Tribes and territories) so that they will be notified of EPA's decisions and rationale regarding the formula;
- Inform all States of the January 15 date for submission of 319(h) grant applications and work programs and the March 1 date for grant award;
- Provide each State the dollar amount of its planning target, inform the State that the target amount is not an entitlement, and explain that the actual grant award in many cases will differ significantly from the target;
- Specify that work programs should be prepared in increments of 50%, 100% and 150% of the funding target;
- Notify the State that EPA will be transmitting programmatic guidance in mid-December that will address issues concerning the criteria for determining final grant awards, as well as guidelines for management and oversight of 319(h) grants; and
- Inform all States that eligibility for FY 1990 319(h) grants depends on EPA approval of State assessments and management programs by January 4, 1990. The only exception will be where all elements of a State's management program except the public notice requirement are approvable by January 4, 1990, and completion of that element alone carries the State beyond the deadline.

Special Considerations for Ground Water Quality Protection

Section 319 of the Clean Water Act places a special emphasis on ground water protection from nonpoint source contamination. This is evident by the inclusion of ground water quality protection activities in both of the subsections of section 319 that establish grant authority. Section 319(h), which establishes a grant program for implementation of NPS management programs, directs EPA to consider grants for activities to "carry out ground water quality protection activities which the Administrator determines are part of a comprehensive nonpoint source pollution control program." Section 319(i) specifically authorizes EPA to provide grants to assist States in carrying out ground water quality protection activities which "will advance the State toward implementation of a comprehensive nonpoint source pollution control program."

For FY 1990, EPA has chosen to award all authorized section 319 grant funds under section 319(h), and has established state-by-state planning targets that reflect the importance of protecting ground water quality from NPS pollution in two ways; these are reflected in two separate columns in Attachment B. First, EPA has included a wellhead protection component as one of the factors used to compute the overall section 319 planning targets. Thus States with significant potential for NPS-induced ground water pollution have received planning targets that reflect this concern.

Second, EPA is establishing a separate ground water element within each State's planning target. The element is based upon a national target of $4.08 million (derived from a ratio of the original authorizing levels for section 319(i) and 319 total amounts, respectively) and a ground water-based interim state-by-state allocation formula developed for EPA's Wellhead Protection Program. Each State will need to specify in its work program the ground water activities that it will undertake, pursuant to its approved section 319(h) program, to implement the ground water element. (States may also choose to undertake ground water activities beyond the minimum established by the separate ground water element.) States that choose not to undertake ground water protection activities or choose to undertake activities below the level established by the ground water element should explain their reasons, and EPA will consider whether to withhold some or all of the funds in the ground water element. The unused portion may then be reallocated to other States for such activities.

The State's lead NPS management agency (*i.e.*, the agency that submitted and obtained EPA approval of a State NPS management program under section 319 (b) and (d)) will submit the section 319(h) grant application. EPA recognizes that States' information and understanding of ground water protection needs may be at a different stage than for surface water. EPA expects that the lead NPS Agency will work closely with the State ground water agency to ensure that the work plan addresses the ground water element and that it also assures that ground water concerns generally receive an appropriate level of consideration during the development of the entire work plan. EPA will regard the failure by a lead NPS Agency to coordinate closely with the ground water agency as unusual, meriting review during consideration of the State's subsequent application for a section 319 grant in FY 1991. Correspondingly, EPA Regional NPS staff will work closely with EPA ground water staff and include the ground water staff in reviewing, approving, and monitoring phases of grant management for States' section 319 ground water protection activities.

ATTACHMENT B

State	Full Planning Target	Ground-Water Planning Target [1]
Alabama	$671,609	$46,986
Alaska	461,406	55,216
Arizona	570,988	77,075
Arkansas	678,807	53,878
California	1,947,578	226,757
Colorado	486,757	43,359
Connecticut	353,605	37,001
Delaware	252,369	25,000
District of Columbia	224,089	25,000
Florida	1,330,661	201,969
Georgia	847,028	110,796
Hawaii	265,974	44,452
Idaho	601,923	103,239
Illinois	1,472,668	123,294
Indiana	779,141	82,433
Iowa	870,587	96,457
Kansas	765,975	62,235
Kentucky	594,916	25,000
Louisiana	869,648	101,941
Maine	355,723	26,555
Maryland	471,338	41,702
Massachusetts	476,288	42,000
Michigan	939,190	87,521
Minnesota	1,161,919	91,748
Mississippi	722,910	109,996
Missouri	903,043	71,052
Montana	568,888	48,337
Nebraska	888,857	70,404
Nevada	302,773	37,907
New Hampshire	269,584	35,230
New Jersey	585,436	78,822
New Mexico	364,446	71,701
New York	1,168,862	156,851
North Carolina	819,310	134,507
North Dakota	762,552	45,603
Ohio	1,073,362	106,426
Oklahoma	626,013	51,083
Oregon	565,282	56,453
Pennsylvania	1,053,527	119,369
Rhode Island	242,735	25,000
South Carolina	551,395	50,997
South Dakota	587,117	48,802
Tennessee	546,745	49,899
Texas	1,677,781	246,502
Utah	403,882	48,488
Vermont	258,937	30,730
Virginia	669,221	101,537
Washington	685,740	129,868
West Virginia	395,724	38,703
Wisconsin	780,503	100,101
Wyoming	340,737	34,341
Guam	96,902	25,000
Northern Marianas	96,902	25,000
Pacific Trust Terr	96,902	25,000
Puerto Rico	200,800	25,000
American Samoa	96,902	25,000
Virgin Islands	96,902	25,000

[1] The Ground-Water Planning Target is a component of, and not in addition to, the Full Planning Target.

ATTACHMENT C

Factor	Data Source	Weighting Factor	Rationale
I. Conference Report			
1988 Section 305(b) Report	1988 Draft—10/89	N/A	National data used to determine the weighting factors for Ag. Urban. Mining and Forestry as indicated below.
Population	1980 Census 1986 Census (est.).	0.2709	Factors include state fraction of national population, pop'n density and pop'n growth.
Cropland Acreage	1982 Ag Census 1982 NRI Data. 1980 Census Data. 1985 ASIWPCA NPS Report.	.1496	Cropland is used as surrogate for sediment and nutrient problems, which account for about 85% of Ag NPS problem. Modeling approach based partly on 1985 ASIWPCA national data.
Pasture & Rangeland Acreage	1982 Ag Census	.0194	Animal units & animal units/farm acre used as surrogate for BOD & bacteria problems, which account for about 11% of Ag NPS problem.
Forest Harvest Acreage	EPA	.0406	Acreage of private & federal forest harvested annually.
Wellhead Protection Areas	Wellhead Protection Program Allotment Formula—EPA.	.1075	Factors include relative risk to ground water, number of people potentially impacted, number of wellheads to be protected & size of state.
Critical Aquatic Habitats	F&WS National Wetlands Inventory 1985 ASIWPCA NPS Report-Appendix.	.0473	State share of total wetland acreage is a meaningful surrogate for critical aquatic habitat since it covers both fresh and saline waters.
Other Use Impacts—319(a)	N/A	N/A	All NPS factors for Ag. Urban. Forestry & Mining are based upon land-based activities, therefore addressing impaired & threatened waters.
II. Other Factors			
Minimum Amount for the states and territories.	N/A	.2502	All States, DC and PR get $176K and the other territories get $72K to institutionalize NPS control activities & programs.
EPA set-aside	N/A	.0500	S. 319(h)—provide Regional & HQ personnel to manage program.
Indian Tribes	S. 106 allocation formula	.0033	S. 518(f).
Mining	1982 NRI 1980 RCA Appraisal.	.0542	State's fraction of mined acres as surrogate for mining.
Pesticides	1982 NRI 1986 National Pesticide Usage Data Base, RFF & EPA.	.0070	Amount & rate of application of active ingredients for pesticides recommended for inclusion in EPA's National Pesticide Survey (OPTS).

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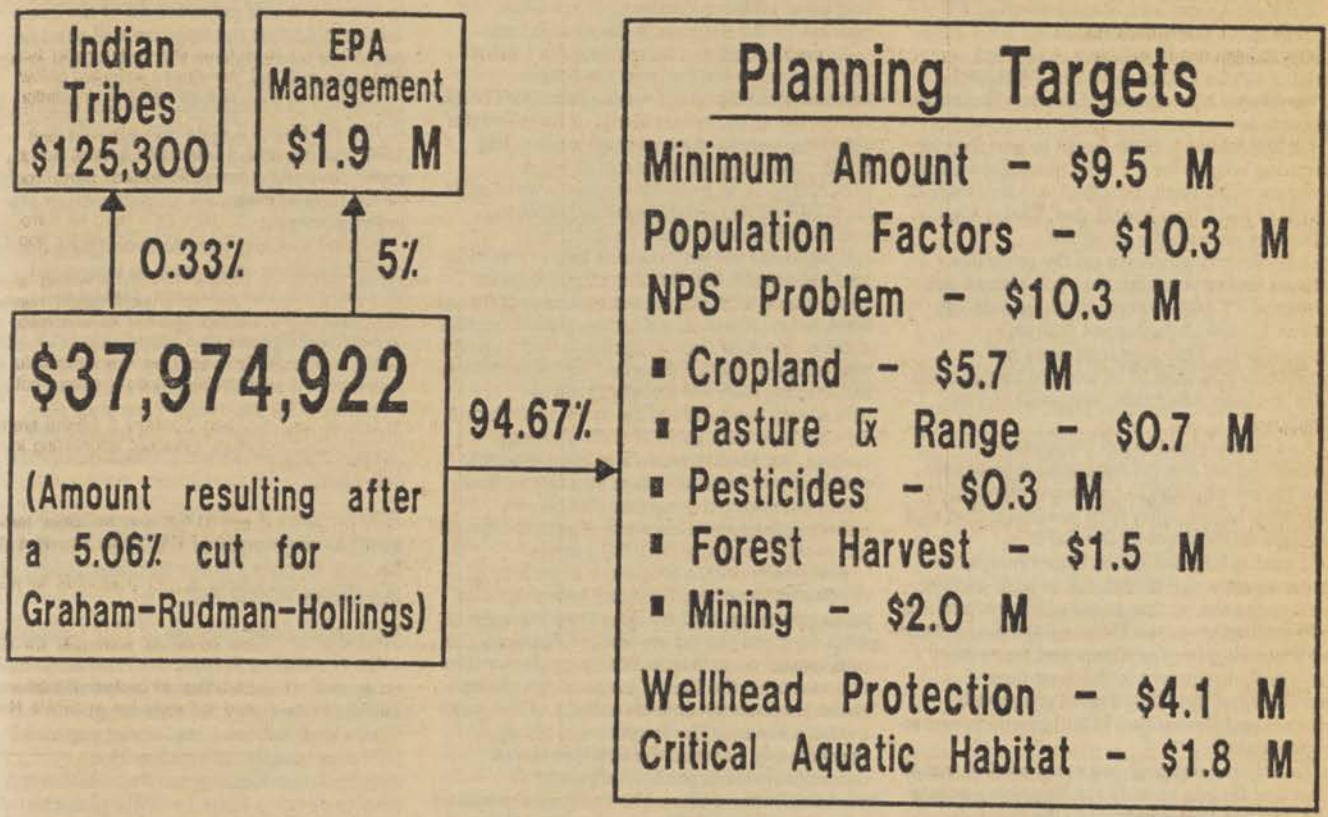
Schematic of Section 319 Allocation Formula



Errors due to rounding.

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Appendix B—Award and Management of FY 1990 Section 319(h) Grants

Memorandum

Subject: Award and Management of FY 1990 Section 319(h) Grants.

From: LaJuana S. Wilcher, Assistant Administrator Office of Water (WH-556).

To: Water Management Division Directors, Regions I-X.

On December 1, 1989, I sent to you interim planning targets for FY 1990 nonpoint source program implementation grants under section 319(h) of the Clean Water Act. Today I am following up with the attached supplementary guidance on the priorities, criteria and procedures that you should use to award FY 1990 section 319(h) grants by March 1, 1990 (Attachment A to this Appendix B). This guidance does not supersede and should be used in conjunction with the December 1987 Nonpoint Source Guidance.

As I emphasized in my December 1 memorandum, our primary goal is to ensure that the section 319(h) funds are directed to effective, high-quality NPS programs that will achieve the best possible results in addressing NPS pollution. Improvement in water quality and protection of high-quality waters are the central goals of the section 319 NPS control program. Demonstrated results in water-quality improvement and protection are vitally important to the long-term credibility of the NPS control program in general and the section 319(h) grants program in particular.

To achieve our goal, we must use the initial planning targets as only the beginning points of a process that will lead to the most effective award of 319(h) funds within each Region. I am calling upon each of you and your staffs to carefully scrutinize the quality and effectiveness of your States' approved NPS assessments and NPS management programs as well as the applications that they will submit by January 16, 1990. I expect that this scrutiny will indicate that some States are both willing and able to implement their NPS programs effectively. Other States may have serious shortcomings with respect to staffing, work programs, and matching funds that will impede their ability to implement effective management programs at this time. You should work closely with them to help them develop the capability to implement an effective work program. You should give funding priority to those State grant applications which reflect effective NPS control programs.

I believe that funding priority should also be given to States that have demonstrated a historical commitment to addressing all significant sources of NPS pollution and having fully approved and effective NPS management programs. Consequently, I have decided to reserve 5% of each State's planning target for redistribution to States with outstanding fully approved programs. Shortly after January 16, 1990, I will convene a national awards panel (including members from both Headquarters and Regions) to review nominations from the Regions of fully approved State nonpoint source management programs which exhibit extraordinarily high quality and which are backed by a history of effective performance. By March 1, 1989, we expect to redistribute the 5% national reserve to provide bonuses to the selected States. The Office of Water Regulations and Standards will send additional information on the process to the Regions in the near future.

In my December 1 memorandum, I asked the Regions to obtain from the States incremental NPS grant work programs at 50%, 100%, and 150%, respectively, of their interim planning targets. As a general matter, any State submitting an approvable work program should, be given a grant award of at least 50% of its initial planning target to enable it to institutionalize its NPS management program. States that are willing and able to use full funding effectively, in accordance with the priorities and criteria set forth in my attached guidance, should receive 100% or more of their planning targets, up to a maximum of 150%. Likewise, States that have shown that they are not prepared to effectively use full funding in FY 1990 should receive less than 100% of their planning targets, but should receive at least the 50% noted above to establish or strengthen their NPS management programs. States not submitting approvable work programs should not receive any section 319(h) funds.

Preferably within one week of receipt of the States' grant applications and proposed work programs, and no later than January 31, 1990, Regions should review the applications and, based upon this review, prepare written comments on the States' work programs and make preliminary determinations of the grant award amounts. The Regions should then immediately forward the comments and determinations of preliminary award amounts to the States. The preliminary award amounts are the dollar amounts that the Regions plans to award to each State by March 1, 1990, provided that the State responds to EPA's comments and submits a final approvable work program by March 1.

After communicating the preliminary award amounts and work program comments, the Regions should continue to work closely with the States to assure that they develop approvable grant work programs by March 1, 1990. Apart from detailing the basic work to be supported by the grant award, an approvable work program must contain:

- Quantified outputs that will specify the State's expected accomplishments using the grant funds and thus enable EPA to objectively evaluate grantees' performance;
- Realistic milestones and reporting requirements that will enable EPA to ensure that projects progress as anticipated, and
- Monitoring requirements, where appropriate, to help assess environmental results.

Finally, as you know, the most important part of the whole NPS control process is implementation. Therefore, effective oversight of States' implementation activities is essential to the success of the national NPS control program. We must actively assist the States in implementing all aspects of their NPS programs, including funded activities, and we must also be prepared to identify and help States solve any problems that develop as expeditiously as possible. I and my staff look forward to working closely with you to assure the success of these programs.

The guidance set forth in Attachment A to this appendix B, builds upon the December 1987 NPS Guidance and elaborates on all of the points set forth above. I have attempted to include in this guidance all of the basic information that the Regions will need to negotiate and approve FY 1990 319(h) grants. The schedule for FY 1990 activities is contained in Attachment B to this appendix B. For subsequent 319 grant awards in FY 1991 and beyond, I intend to form a work group, including broad Regional membership, to develop appropriate annual section 319 grant guidance.

If you have any questions on this guidance or need further assistance on issues not addressed in this guidance, please call Martha Prothro, Director of the Office of Water Regulations and Standards (FTS 382-5400), or Geoff Grubbs, Director of the Assessment and Watershed Protection Division (FTS 382-7040). Your staff may obtain further details on the issuance of section 319 grants from Ed Richards (FTS 475-7314).

Attachment A—Guidance on the Award and Management of FY 1990 Nonpoint Source Grants Under Section 319(h) of the Clean Water Act

Background and Purpose of This Guidance

On November 9, 1989, the President signed an appropriations bill that included $40 million of section 319 funds for grants to States and Tribes to implement approved NPS management programs. The appropriation Conference Report directed EPA to develop State-by-State planning targets for FY 1990 funding based on interim criteria which reflect nonpoint source needs. Congress further directed EPA to seek State grant applications no later than January 16, 1990, award NPS grants to States with approved NPS programs no later than March 1, 1990, and make those awards in accordance with EPA's December 1987 NPS Guidance.

On December 1, 1989, we sent to the Regions interim planning targets for FY 1990 NPS program implementation grants under section 319(h) of the Clean Water Act. Today's guidance supplements the December 1987 NPS Guidance and December 1, 1989, memorandum by focusing on the specific steps that remain to complete the process of issuing FY 1990 section 319(h) grants and to oversee funded activities after March 1, 1990. This guidance has been prepared with the cooperation of the Office of General Counsel, the Grants Administration Division, and the Office of the Comptroller.

Throughout this guidance, we emphasize that, at all steps of the funding and oversight process, EPA must assure that the funds will be directed toward activities that result in demonstrated progress in achieving Congress' goal of controlling and abating NPS pollution. As discussed in the December 1 memorandum that transmitted the planning targets, the planning targets are *not* to be regarded as entitlements. While planning targets are necessary beginning points for developing grant workplans, the final grant awards should be based on priorities,

criteria, and procedures that assure that the funds will be used effectively to achieve the objectives of the NPS control program. The NPS program objectives, and the priorities, criteria, and procedures to achieve those objectives, are discussed below.

Objectives for FY 1990 Nonpoint Source Grant Awards

We have four objectives for FY 1990 NPS grant awards. These are to:

1. Support State activities to abate or prevent NPS pollution that produce early, demonstrable water quality results.
2. Award and manage NPS grants in a manner that rewards effective performance by the States.
3. Institutionalize State and local nonpoint source programs.
4. Encourage strong relationships among Federal, State and local NPS and NPS-related programs and activities to create long-term program effectiveness.

Eligibility

To establish eligibility for 319(h) funds in FY 1990, a State must have received EPA approval of its NPS assessment and management program, or portions of its management program, by January 4, 1990. If a State does not meet this deadline, it will not receive any FY 1990 319(h) funds.[1] The Regional office will award funds from that State's planning target to other States within the Region that have approved NPS management programs. In addition, 5% of each State's planning target is being reserved by Headquarters for reallocation to States with fully approved NPS management programs. The reallocation will occur shortly after January 4, 1990.

Regions should encourage States that do not have approved NPS management programs to continue to work to improve their programs so that they may be approved by January 4, 1990, and FY 1990 grant funds may be made available for their implementation. Regions should also encourage States to modify fully approved programs, or expand approved portions of programs, as appropriate to assure that the best possible work programs may be developed and considered for funding.

Section 319(h)(1) authorizes grants only for the purpose of assisting the State in implementing NPS management programs. Therefore, NPS program development activities are not eligible for funding under section 319(h).

Funding Process for FY 1990

A. Step 1 (by January 16): States Use Planning Targets To Develop Grant Work Programs and Submit Grant Applications

States with approved assessments and management programs should use their FY 1990 interim planning targets to begin development of NPS grant work programs. States should develop three incremental work programs to be funded at 50%, 100%, and 150%, respectively, of the interim planning targets. These work programs should be submitted to the Regions by January 16, 1990. Regions should work closely with their States at this stage to promote the development and submission of high-quality, goal-oriented work programs. Regions should emphasize the significant role that the quality and effectiveness of these work programs will play in the Region's determination of final awards.

B. Step 2 (by January 31): Regions Review and Comment on Grant Applications and, Based on this Review, Make Preliminary Determinations of Grant Award Amounts

Preferably within one week of receipt of the States' grant applications and proposed work programs, and no later than January 31, 1989, Regions should review the applications and, based upon this review, prepare written comments on the States' work programs and make preliminary determinations of the grant award amounts. The Region should then immediately forward the comments and preliminary determinations of award amounts to the States. The preliminary award amounts are the dollar amounts that the Region plans to award to each State by March 1, 1990, provided that the State responds to EPA's comments and submits a final approvable work program by March 1.

As a general matter, any State submitting an approvable work program should be given a preliminary award amount of at least 50% of its initial planning target to enable the State to institutionalize its NPS management program. States whose performance since February 1987 indicates that they are willing and able to use full funding effectively, in accordance with the priorities and criteria set forth in this guidance, should receive a preliminary award amount of 100% or more of their planning targets, up to a maximum of 150%. Likewise, States that have shown that they are not prepared to effectively use full funding in FY 1990 should receive less than 100% of their planning targets, but should receive at least the 50% noted above to establish or strengthen their NPS management programs. States not submitting approvable work programs should not receive any section 319(h) funds.

C. Step 3 (March 1): States Finalize Work Programs That Respond to Regions' Comments and Regions Award Grants

Once the Region's comments on the States' grant applications and preliminary award determinations are communicated to the States in late January 1990, the States should develop final work programs that respond to the Region's comments and are generally of sufficiently high quality to merit funding. Throughout this final period, Regions should continue to emphasize quality and effectiveness in their discussions with States.

It is particularly important during this period to formalize quantified outputs, milestones, and reporting requirements, as well as to specify water quality monitoring requirements. (These grant criteria and conditions are discussed in greater detail below.) Regions should not award any funds to a State if they cannot be assured that the State's funded activities will achieve specific outputs within specified time periods and that achievement of those outputs can be adequately tracked and assessed by the Region.

All section 319(h) grants must be issued by March 1, 1990. After March 1, funds that have not been awarded to a State must, by June 1, 1990, be reallocated by the Region to other States in the Region that have submitted approvable work programs. Any funds not reallocated by June 1 must be returned to Headquarters. Headquarters will reallocate these funds to attain high-priority national objectives.

Regions may award a partial grant by March 1, 1990, if a State grant work program contains minor deficiencies that require further revision to comply fully with the requirements established by section 319, applicable regulations, and this guidance. The partial grant must contain conditions specifying the revisions necessary for the State to receive a full award. Any additional funds for the State must be awarded no later than May 1, 1990. Any funds not awarded to the State by May 1 must either be reallocated by the Region to other States by June 1, 1990, or returned to Headquarters for reallocation.

D. Step 4: States Obligate the Awarded Funds and Conduct the Funded Activities Throughout the Budget Period

EPA's Office of General Counsel has interpreted section 319(h)(6) to provide that FY 1990 section 319(h) funds granted to a State remain available for obligation by the State until September 30, 1991 (the end of FY 1991). The amount of any such funds that cannot be obligated by that date shall be available to EPA for granting to other States. Regions may use grant language issued by Geoffrey Grubbs, Director of the Assessment and Watershed Protection Division on April 4, 1989, to assure that States commit to expend awarded funds in a timely manner.

The funded work will be carried out during a budget period specified in the grant. Budget periods should be appropriate to the activities to be carried out. Many funded activities, such as watershed projects, will take three to five years to carry out. In such cases, we encourage Regions to negotiate multi-year budget periods that are appropriate to attaining the purposes of the project.

Priorities for Awarding 319(h) Grants

Set forth below are the priorities for setting preliminary and final section 319(h) grant award amounts and awarding 319(h) grants. These priorities are designed to ensure that EPA achieves the objectives stated above.

A. Effectiveness of State's Performance to Date

A major factor in determining whether a State will use grant funds effectively to address NPS pollution is its effectiveness in addressing NPS issues in the past. Regions should give funding priority to States that have demonstrated through past performance the willingness and ability to plan and implement NPS control activities. Such performance includes activities to date in developing and, where appropriate, implementing State NPS assessments, NPS management programs, section 205(j)(5) grant

[1] The only exception is where all aspects of a State's management program, or program portion, are approvable by January 4, 1990, except for the public notice requirement, and completion of that aspect alone carries the State beyond the deadline.

work programs, and section 319 grant work programs; these should be evaluated in terms of quality, timeliness, completeness, breadth and depth. Equally important, Regions should consider States' success to date in establishing NPS controls and installing best management practices through regulatory or non-regulatory means; providing research, monitoring, training, education and technical assistance; and conducting other activities that provide real movement towards achieving water-quality objectives through NPS control.

B. Content of Work Programs

1. *Balanced State Programs.* At this early stage of the section 319(h) grants program, we need to ensure that State NPS management program implementation activities establish a pattern that will provide for both short-term and long-term results. FY 1990 grant funds should be directed to balanced State work programs that provide for both (1) the improvement of particular water segments' quality through the performance of watershed projects, and (2) the institutionalization of long-term State-wide NPS management programs that encompass a broad range of activities. Such a balanced program can be achieved if Regions and States work together to fund high priority management program activities that address both of these aspects of NPS control.

States should design watershed projects not only to address local water quality problems but also to demonstrate new or innovative technical and institutional approaches that can be used more widely to resolve types of NPS problems that are important in the State, especially those in high-priority areas or sectors identified by the State NPS assessment. For example, a project to reduce contamination from an abandoned mine might be appropriate in a State that has widespread mining activities. Analagous examples would apply in States having substantial activities in row crop cultivation, animal feeding operations, forestry, hydromodification, and urban development.

The December 1987 NPS Guidance states (p. 27) that implementation plans are required for all watershed projects, and Regions should assure that these plans are developed in sufficient detail to assure accountability. However, we recognize that the short time until March 1 may constrain some States from including detailed watershed plans in their work programs. In such cases, the project may be approved as part of the grant work program if (1) the State provides sufficient detail in the work program to assure the Region that the project warrants funding, and (2) the Region includes a special condition in the grant requiring EPA approval of the watershed plan by June 1, 1990, before grant funds are released for that project.

The second element of a balanced State work program, the institutionalization of State-wide NPS management programs, consists of activities that initiate a long-term NPS management program as an integral part of the State's water quality management processes. As a general rule, Regions should ensure that a sizable portion (*e.g.*, 25%–50%) of FY 1990 section 319(h) funds in each State is used to hire State and local NPS staff and to establish in State and local agencies NPS programs for a broad range of activities, including non-regulatory or regulatory programs for enforcement, monitoring, technical assistance, financial assistance, education, training, technology transfer, and watershed project management and oversight. (This portion of the grant must, however, be consistent with the requirements of section 319(h)(12), "Limitation of Administrative Costs," discussed below.) Regions and States should also consider other funding provisions, including sections 106 and 205(j), that may be used for developing a long-term capability to implement a State-wide NPS management program.

2. *Priority NPS Activities.* Section 319 funds should be focused upon those particular NPS activities that are of the highest priority to the Agency. Ten such activities are identified in the NPS Guidance issued by the Administrator in December 1987. Pursuant to the Guidance (at p. 29), preference in the award of grant funds for priority NPS activities will be given to work programs that:

- Control particularly difficult or serious nonpoint source problems, including, but not limited to, problems resulting from mining activities.
- Implement innovative methods or practices for controlling nonpoint sources of pollution, including regulatory (e.g., enforcement) programs where EPA deems appropriate.
- Control interstate nonpoint source pollution problems.
- Carry out ground-water quality protection activities which EPA determines are part of a comprehensive nonpoint source pollution control program, including research, planning, ground-water assessments, demonstration programs, enforcement, technical assistance, education, and training to protect ground water from nonpoint sources of pollution.
- Address nationally significant, high-risk NPS problems.
- Address surface/ground-water (cross-media) issues.
- Integrate Federal, State and local programs. Such programs could include multi-jurisdictional efforts such as the USDA's Water Quality Initiative, TVA's Land and Water 201 project, and the like.
- Provide for monitoring/evaluation of program effectiveness.
- Comprehensively integrate CWA requirements. An approved State Clean Water Strategy is an important aspect of such integration.
- Demonstrate a long-term commitment to the building of institutions necessary for effective NPS management and the continuation of such institutions beyond the authorization period.

These ten priorities remain in effect for FY 1990 grants. For FY 1990, Regions should also place particular emphasis on six activities, listed below, that form a particularly important subset of the above ten priorities. Regions should give preference to programs that:

- Emphasize effective pollution prevention mechanisms to control NPS pollution at the source.
- Protect particularly sensitive and ecologically significant waters, such as wetlands, estuaries, wild and scenic rivers, and exceptional fisheries.
- Promote comprehensive watershed management, including the establishment and maintenance of protective corridors such as greenways, filter strips and wetlands along streams, lakes and estuaries and the use of conservation easement and other land conservancy measures.
- Provide for the use of antidegradation provisions and other measures necessary to assure that population growth, new development, and new or expanded economic activity do not result in impairment of high quality waters and waters currently meeting water quality standards.
- Address urban stormwater that is not regulated by NPDES permits.
- Provide for rigorous water quality monitoring protocols (discussed immediately below).

C. *Monitoring.* As noted above, projects incorporating monitoring are a high priority for NPS grant awards. This priority element warrants special emphasis.

Section 319(h)(7) of the CWA authorizes States to use section 319(h) funds "for financial assistance to persons only to the extent that such assistance is related to the costs of demonstration projects." For this reason, watershed projects that include such assistance must, as noted earlier, demonstrate a new or innovative technical or institutional approach that can be used more widely to resolve a type of NPS problem that is prevalent in the State. Monitoring to evaluate and document the results of a watershed project is essential to making a successful demonstration of the project's effectiveness. Monitoring is also required to enable EPA to fulfill its statutory obligation to report to Congress annually on "the progress made in reducing pollution in the navigable waters resulting from nonpoint sources and improving the quality of such waters" (section 319(m)(1)).

Due to the factors outlined immediately above, appropriate monitoring and evaluation must be included and described in the workplan for any demonstration project. In addition, for watershed projects costing more than $300,000 (including all funding sources) and for other watershed projects as appropriate, Regions should strongly encourage the inclusion of specific, rigorous water quality monitoring protocols. The monitoring requirements should be included as conditions in the grant agreement.

In September 1989, we sent to the Regions a third draft of the document Nonpoint Source Monitoring and Reporting Requirements for Watershed Implementation Grants (dated September 19, 1989). In view of the tight timeframes established by the Conference Report, we encourage the Regions to work with the States to use the monitoring approaches suggested in that draft document to ensure that water-quality effects of watershed projects are adequately assessed and documented. Surrogate monitoring techniques may also be used to provide early indications of the effectiveness of particular best management practices.

Monitoring programs typically begin with baseline monitoring. Such monitoring should not be regarded as a prerequisite to beginning BMP implementation in a watershed. Rather, initial BMP implementation and baseline monitoring should proceed simultaneously to assure that achievement of pollution abatement in the watershed is not delayed.

Grants Management Criteria for Awarding 319(h) Grants

In addition to the priority factors outlined above, which are used to identify the types of activities that should receive preference by EPA, Regions should in all cases apply several grants management criteria in determining whether grant work programs are adequate. These criteria are essential to assuring that the activities identified in the work programs will effect significant implementation of the States' approved NPS management programs. Funds should not be granted unless these criteria are met.

A. The Work Program Must Demonstrate That Each Funded Work Program Task Will Implement Specific Activities Identified in the Approved Management Plan

Section 319(h) of the CWA provides that 319(h) grants are to be made "for the purpose of assisting the State in implementing such management program." The grant work program must therefore "implement" the approved NPS management program; the Region should assure that each task will in fact lead to accomplishment of identified management program activities or objectives. Grant work programs should specifically identify (including specific citations), for each work program task, the element or elements of the approved NPS management plan that will be addressed by the task. Similarly, work programs should clearly indicate the specific State and local agencies responsible for implementing each task.

B. The Work Program Must Specify Outputs and Milestones

On May 31, 1985, the Administrator issued an Agency-wide Policy on Performance-Based Assistance. That policy establishes as a fundamental principle of grant agreements that States and EPA should share a common set of expectations regarding performance commitments, reflected in the agreements by the specification of measurable outputs. Consistent with this policy, the 319(h) grant work program must briefly describe each task, the funding to be applied to accomplishing the task, and the outputs to be produced by performance of the task. This will not only assure that the State and EPA have shared expectations, but will also assure that the State's subsequent success or failure can be assessed objectively.

States should have little difficulty quantifying outputs for most types of tasks. Examples include holding four public workshops for 200 people each; issuing five technology-transfer manuals, each covering particular specified subjects; promulgating two regulations covering specified activities; employing two full-time personnel providing technical assistance, one full-time person conducting monitoring and inspection activity, and one full-time person conducting enforcement activity; and conducting three demonstration projects affecting 25,000 acres of cropland. If an unusual instance occurs where an activity's output cannot be described in quantitative terms, the activity should be described in specific enough terms to ensure that no misunderstanding develops as to the level of performance contemplated by the State and EPA.

Equally important, the 1985 Policy provides that work programs should specify both interim milestones and final dates for completion of tasks. Section 319 (b)(2)(C) and (h)(11)(A) reinforces the need for specific milestones in section 319(h) grants. Schedules should be realistic, but they must assure expeditious performance. Interim milestones should be sufficiently frequent to assure timely performance throughout the project period, so that problems can be identified and corrected expeditiously. The milestones in the State NPS management program, both for funded and unfunded activities, will play a particularly important role next year when the Regions conduct periodic evaluations of State NPS programs, review grant applications for FY 1991 funds, and make section 319(h)(8) determinations whether the States have exhibited satisfactory progress in FY 1990.

C. The State Must Commit to Provide at Least a 40% Match

Section 319(h)(3) provides that the Federal share shall not exceed 60% of the management program implementation cost and shall be made on the condition that the non-Federal share is provided from non-Federal sources. The match need not be on an item-by-item basis, but rather should be a single figure that covers the State's entire match for implementation activities. The State's match does not need to be contributed by March 1, but the State must be prepared to contribute the funds in a timely manner as needed to implement the work program activities in accordance with program milestones.

Ground Water Element

As explained in the December 1, 1989, guidance, no section 319(i) grants will be awarded in FY 1990, but each FY 1990 section 319(h) grant will contain a ground water element. EPA recognizes that a State's information and understanding of its ground-water resources and related priority protection needs may be considerably less developed than the State's information and understanding of its surface-water protection needs. If a State already has a good basis for determining its ground water priorities, then the State should implement efforts to address these priorities. On the other hand, where the requisite information to establish State implementation priorities is lacking, EPA encourages the State, as authorized by section 319(h)(5)(D), to use the section 319 ground water element to further its assessment of ground water resources and to establish a basis for identifying priority protection needs prior to undertaking any site-specific measures. However, such assessment efforts are eligible for 319(h) grants only if they are implementation activities identified in the approved 319 management program, either through direct identification in the program or through incorporation by reference of the State's Ground Water Protection Strategy. If such activities are not currently included, the State's management program should be amended.

EPA also encourages each State to undertake its section 319 ground water efforts in a manner consistent with the State's overall Ground Water Protection Strategy. (If the Ground Water Protection Strategy or State ground water classification is inconsistent with the approved NPS program, the State should take appropriate action to resolve the discrepancies.) To promote such consistency, the State's grant application should specify coordination mechanisms with the State's lead ground water agency or program responsible for developing and implementing the State's ground water protection strategy.

Section 319(h) grants for ground water activities, as for other 319(h) grants, may fund best management practices that control nonpoint sources so as to avoid causing ground-water contamination. However, Regions should not use the limited section 319(h) funds to clean up ground waters that are already contaminated (*e.g.*, by installing pump and treat operations). Rather, section 319 funds should be directed at controlling the sources that would cause new contamination or further contamination of existing sites.

EPA will be assessing section 319 grants in FY 1990 to determine whether this funding approach is adequate for addressing ground water concerns. Based on this assessment, EPA will establish a permanent approach to section 319 ground water funding for 1991.

Special Conditions to be Included In All Grants

All section 319(h) grants are governed by EPA's general grant regulations, 40 CFR part 31. In addition to the requirements of part 31, the State's section 319(h) grant is subject to the following requirements, which should be reflected in special grant conditions.

1. Reporting

Section 319(h)(10) authorizes EPA to request information, data and reports as necessary for EPA to make a determination of a State's continuing eligibility for section 319 grants. Section 319(h)(11) requires States to report their progress in meeting NPS management program milestones, as well as the reductions in NPS pollutant loadings and improvements in water quality that have resulted from program implementation. In compliance with these statutory requirements, Regions should include appropriate reporting requirements in each 319 grant. The Regions should work with their States to develop these requirements, in accordance with 40 CFR 31.40. Reporting requirements should be as simple as possible, consistent with EPA's need to determine whether outputs and milestones are being achieved on schedule, identify any problems that may be developing in carrying out tasks in the grant work program, and correct such problems expeditiously. The previously referenced September 19 draft NPS Monitoring and Reporting Requirements

document contains sample formats that may be used to report monitoring information.

2. Maintenance of Effort

Pursuant to section 319(h)(9), the grant must specify terms to ensure that the State will "maintain its aggregate expenditures from all other sources for programs for controlling pollution added to the navigable waters in such State from nonpoint sources and improving the quality of such waters at or above the average level of such expenditures" in FY 1985 and FY 1986. EPA has issued guidance on applying this provision. See the December 1987 NPS Guidance and memorandum NPS FY–89–71, issued on August 25, 1989.

3. Limitation on Administrative Costs

Pursuant to section 319(h)(12), the grant must specify that administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against activities and programs carried out with the grant shall not exceed 10% of the grant award, except that the costs of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer are not subject to this limitation.

Management and Oversight of Section 319(h) Grants

Congressional approval of substantial appropriations of section 319(h) funds in FY 1990 presents a major opportunity and challenge for States and EPA to implement NPS management programs that address the significant threat that NPS pollution poses to water quality across the country. Critical to the success and credibility of the national NPS program is the development of a flexible but effective management structure that establishes productive links between local projects and State agencies, between the lead NPS agency and other State agencies, and between lead State agencies and EPA Regions, as well as with other Federal Agencies. Particularly during the initial period of implementing State management programs, it will be necessary for EPA Headquarters to assure that relationships at all levels are productive and that measurable results leading to water quality improvements are produced by the grants.

Just as the grant agreement specifies outputs and milestones to be achieved by the States, States should work with sub-State organizations that will be conducting funded NPS implementation activities for the State to specify outputs and milestones in memoranda of agreement, contracts or other appropriate documents. Both the fiscal and programmatic integrity of NPS programs depend on cooperatively negotiating and carrying out precise agreements.

Regions should use the Administrator's Performance-Based Assistance Policy as a guide to negotiating, awarding and managing grants and to assure that State agencies follow the spirit of that policy to assure accountability in their relationships with sub-State organizations. Regional oversight of State implementation should be documented in an evaluation plan. The plan should include on-site inspection of selected watershed projects as well as periodic reviews of States' success in achieving outputs and milestones. Evaluations should consider both the quality and effectiveness of the work being performed and its timeliness. When evaluation results show that grant and contract provisions have not been substantially achieved, Regions are expected to take corrective action. One form of corrective action could be to determine that the State has not made "satisfactory progress" under section 319(h)(8), and to deny the State's FY 1991 grant application the following year. Other forms of corrective action are described at 40 CFR 31.43.

Where a lead State agency is providing EPA grant funds to State or local agencies to carry out the terms of a NPS grant, the Region must hold the lead agency responsible for all outputs in its 319(h) work program, even though the activities to achieve some of the outputs are being carried out by local agencies or State agencies other than the lead agency. For example, if a local agency has inadequately performed particular funded activities, the Region should work with the lead State agency to resolve the problem. One remedial measure might be for the State to select a more capable local agency to carry out future tasks of this nature.

Headquarters will also play an oversight role during this crucial initial period of 319 grants management. Our basic goal will be to assure that relationships between Regions, State agencies and sub-State organizations are effective and beginning to produce improvements in water quality. Headquarters activities will include review of selected management programs, 319(h) work programs and watershed plans; participation with Regions in midyear reviews of State programs; and on-site reviews of Regional NPS programs. These activities will be discussed in detail with the Regions to assure that these functions complement and reinforce Regional programs.

Grants to Indian Tribes

Section 518(f) states that the Administrator may reserve for Indian Tribes treated as States not more than one-third of one percent of the amount appropriated for any fiscal year under section 319(j) for section 319 (h) and (i). EPA intends to make ½ of one percent, or $130,000, available for 319(h) grants to Tribes from the FY 1990 appropriation.

To be eligible for such grants, Tribes must meet the requirements for treatment as a State outlined in section 518(e) of the Clean Water Act, 40 CFR 130.6(d) and 130.15, as well as applicable provisions of 40 CFR 35.360. These requirements are specified in the interim final rule, "Indian Tribes: Water Quality Planning and Management", published in the Federal Register on April 11, 1989 (54 FR 14354). In addition, EPA has prepared a checklist of all of the requirements and information necessary to comply with requirements for treatment as a State.

Indian Tribes are required to meet the matching and maintenance-of-effort requirements under section 319(h); however, if a Tribe can demonstrate financial cause, the Federal share of 319(h) funds can be increased to 90%. In addition, Tribes may use in-kind contributions to meet these requirements. Because the amount of funds available to Tribes is limited for nonpoint source purposes, Tribes that do receive grants should have sufficient funding levels to assure that meaningful work is accomplished. Therefore, it is recommended that any Tribe should not receive less than $10,000.

A second requirement for 319(h) grant eligibility is EPA approval of a Tribe's NPS assessment and management program. Because considerable time and effort will be required on the part of the Indian Tribes to meet this requirement, Tribes that have not obtained program approval by January 4, 1990, will remain eligible for FY 1990 funding if they obtain approval by August 1, 1991. (On October 1, 1991, the statutory authority to award FY 1990 319(h) funds will expire.) Once obligated, these funds are not subject to the October 1, 1991, deadline; however, realistic work program budget periods should be negotiated. Funds reserved for Tribes that are not awarded by August 1, 1991 will be reallocated to other eligible Tribes.

Attachment B—Schedule for Issuance of FY 1990 Section 319(h) Grants

December 1, 1989: Issuance of memorandum by LaJuana Wilcher establishing interim planning targets for FY 1990

December 15, 1989: Issuance by LaJuana Wilcher of a guidance memorandum, "Award and Management of FY 1990 Section 319 Grants"

January 15, 1990: States submit grant applications and work programs to Regions

January 31, 1990: Regions transmit to States comments on the States' grant applications and work programs together with preliminary determinations of the grant award amounts

March 1, 1990: Regions award grants

[FR Doc. 90–20017 Filed 08–27–90; 8:45 am]

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federal register

Tuesday
August 28, 1990

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AA24

Migratory Bird Hunting; Early Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits of mourning, white-winged, and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sandhill cranes; sea ducks; early (September) waterfowl seasons; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; and some extended falconry seasons. According to the Migratory Bird Treaty Act of 1918, taking of migratory birds is prohibited unless specifically provided for by annual regulations. This rule will permit taking of designated species during the 1990–91 season.

EFFECTIVE DATE: August 28, 1990.

FOR FURTHER INFORMATION CONTACT: Thomas J. Dwyer, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, room 634—Arlington Square, Washington, DC 20240 (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1990

On March 14, 1990, the Service published for public comment in the **Federal Register** (55 FR 9618) a proposal to amend 50 CFR part 20, with comments periods ending July 20, 1990, for early-season proposals; and August 27, 1990, for late-season proposals. On June 6, 1990, the Service published in the **Federal Register** (55 FR 23178) a second document consisting of a supplemental proposed rulemaking dealing with both early- and late-season frameworks. On June 21, 1990, a public hearing was held in Washington, DC, as announced in the **Federal Register** of March 14 (55 FR 9618), June 6 (55 FR 23178), and June 8 (55 FR 23487), 1990, to review the status of migratory shore and upland game birds. Proposed hunting regulations were discussed for these species and for other early seasons. On July 10, 1990, the Service published in the **Federal Register** (55 FR 28352) a third document consisting of a proposed rulemaking dealing specifically with frameworks for early-season migratory bird hunting regulations. On August 2, 1990, a public hearing was held in Washington, DC, as announced in the **Federal Register** of March 14 (55 FR 9618), June 6 (55 FR 23178), and July 10 (55 FR 28352), 1990, to review the status of waterfowl. Proposed hunting regulations were discussed for these late seasons. On August 14, 1990, the Service published a fourth document (55 FR 33264) containing final frameworks for early migratory bird hunting seasons from which wildlife conservation agency officials from the States, Puerto Rico, and the Virgin Islands selected early-season hunting dates, hours, areas, and limits for 1990–91. The fifth document in the series, published August 17, 1990 (55 FR 33842), deals specifically with proposed frameworks for the 1990–91 late-season migratory bird hunting regulations. The final rule described here is the sixth in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending subpart K of 50 CFR part 20 to set hunting seasons, hours, areas, and limits for mourning, white-winged, and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sandhill cranes in the Central and Pacific Flyways; sea ducks in the Atlantic Flyway; experimental September duck seasons in identified States; experimental and special September Canada goose seasons in portions of identified States; doves in Hawaii; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; and some extended falconry seasons.

Nontoxic Shot Regulations

In the August 16, 1990, **Federal Register** (55 FR 33626), the Service published a final rule describing zones in which lead shot is prohibited for hunting waterfowl, coots, and certain other species in the 1990–91 season. Waterfowl hunters are advised to become familiar with State and local regulations regarding the use of nontoxic shot for waterfowl hunting.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)", filed with EPA on June 9, 1988. Notice of Availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582). The Service's Record of Decision was published on August 18, 1988 (53 FR 31341). Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES**.

Endangered Species Act Consideration

On July 12, 1990, the Division of Habitat Conservation concluded that the proposed action is not likely to jeopardize the continued existence of listed species or results in the destruction or adverse modification of their critical habitats. On July 23, 1990, the Office of Migratory Bird Management requested reinitiation to further consider the effects of the increasing population of Aleutian Canada geese and the variable nature of incidental take of this species. On August 2, 1990, the Division of Habitat Conservation issued another biological opinion that addressed this issue. Hunting regulations are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conversation of endangered and threatened species and their habitats. The Service's biological opinions resulting from its consultation under section 7 considered public documents and are available for inspection in the Division of Habitat Conservation and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, room 634, Arlington Square, 4401 N. Fairfax Drive, Arlington, Virginia.

Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act

In the **Federal Register** dated March 14, 1990 (55 FR 9618), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive order. These included preparing a Determination of Effects and revising the Final Regulatory Impact Analysis. In the August 14, 1990, **Federal Register** (55 FR 33264), the Service published a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, room 634-Arlington Square, Department of the Interior, Washington, DC 20240. These proposed regulations contain no information collections subject to Office of Management and Budget review

under the Paperwork Reduction Act of 1980. NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)", filed with EPA on June 9, 1988. Notice of Availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582). The Service's Record of Decision was published on August 18, 1988 (53 FR 31341).

Memorandum of Law

The Service published its Memorandum of Law, required by section 4 of Executive Order 12291, in the **Federal Register** dated August 14, 1990 (55 FR 33264).

Authorship

The primary author of this rule is William O. Vogel, Office of Migratory Bird Management, working under the direction of Thomas J. Dwyer, Chief.

Regulations Promulgation

After analysis of migratory game bird survey data obtained through investigations conducted by the Service, State conservation agencies, and other sources, and consideration of all comments received on the early proposals (55 FR 9618, March 14, 1990; 55 FR 23178, June 6, 1990; and 55 FR 28352, July 10, 1990), the Service published in the **Federal Register** on August 14, 1990 (55 FR 33264), final early-season frameworks for the United States, including Alaska and Hawaii, and Puerto Rico and the Virgin Islands. Copies of the proposed and final frameworks were sent to the officials of the State conservation agencies and to conservation agency officials in Puerto Rico and the Virgin Islands who were invited to submit recommendations for hunting seasons which complied with the season times and lengths, hours, areas, and limits specified in the final frameworks. The Service has long recognized, consistent with 16 U.S.C. 708, that States need not select maximum bag limits and season length delineated in annual Federal frameworks. Local resource needs and the health of portions of a population using a particular area may require stricter local controls than prevail elsewhere in a flyway.

The taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The following amendments will permit taking of the designated species within specified time periods and will benefit the public by relieving existing restrictions.

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, the Service intends that the public be given the greatest possible opportunity to comment on the regulations. Thus, when proposed rulemakings were published on March 14, June 6, and July 10, 1990, the Service established what it believed were the longest periods possible for public comment. In doing this the Service recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the States would have insufficient time to select their season dates, shooting hours, hunting areas and limits; to communicate those selections to the Service; and to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will, therefore, take effect immediately upon publication.

Accordingly, with each State conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State on those species of migratory birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are hereby amended as set forth below.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: August 22, 1990.

Bruce Blanchard,

Acting Director, U.S. Fish and Wildlife Service.

PART 20—[AMENDED]

For these reasons set out in the preamble, title 50, chapter I, subchapter B, part 20, subpart K, is amended as follows.

1. The authority citation for part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 701–711) and the Fish and Wildlife Improvement Act of 1978 (92 Stat. 3112; 16 U.S.C. 712).

2. Section 20.102 is revised to read as follows:

§ 20.102 Seasons, limits, and shooting hours for Alaska.

This section provides for the annual hunting of certain waterfowl (ducks, tundra swans, geese, and brant), common snipe, and sandhill cranes in Alaska. In Alaska, the hunting of waterfowl must be with the use of nontoxic shot beginning in the 1991–92 waterfowl season.

3. Section 20.106 is revised to read as follows:

§ 20.106 Seasons, limits, and shooting hours for sandhill cranes.

This section provides for the annual hunting of sandhill cranes in designated portions of the 48 contiguous United States.

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Note - The following annual hunting regulations provided for by §§20.101 through 20.106 and 20.109 of 50 CFR 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

4. Section 20.101 is revised to read as follows:

§20.101 Seasons, limits and shooting hours for Puerto Rico and the Virgin Islands

1. Subject to the applicable provisions of the preceding sections of this part, the open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits, and areas for hunting the species designated in this section are prescribed as follows:

(a) Puerto Rico Doves and Pigeons

	Doves	Pigeons
Daily bag limit	10 singly or in the aggregate of all permitted species	5
Possession limit	10 singly or in the aggregate of all permitted species.	5
Season dates	September 1 to October 29, 1990.	
Shooting hours	One-half hour before sunrise to sunset daily.	

Restrictions: Only the following species of doves and pigeons may be hunted during the open season: Zenaida dove--Tortola cardosantera; white-winged dove--Tortola aiblanca o cubanita; mourning dove--Tortola rabilargao rabiche; and scaly-naped pigeon--Paloma turca o torcaz.

Closed Areas.

No season is prescribed for doves and pigeons on Mona Island , in the Municipality of Culebra, on Desecheo Island, and on Visques Island.

No season is prescribed in the El Verde Closure Area consisting of those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) all lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one (1) kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

No season is prescribed for doves and pigeons of any species in all of Cidra Municipality and in portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavata, west along the Rio Guavata to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality, and westerly, northerly, and easterly along the Cidra Municipality boundary to the point of beginning.

CHECK COMMONWEALTH REGULATIONS FOR ADDITIONAL RESTRICTIONS.

(b) Puerto Rico - Ducks, moorhen, and snipe

	Ducks	Common Moorhens (Gallinules)	Common Snipe
Daily bag limits	3	6	6
Possession limits	6	12	12
Season dates	October 27 to October 29, 1990 & November 3 to December 24, 1990.		
Shooting hours	One-half hour before sunrise until sunset daily.		

Restrictions: No season is prescribed for waterfowl in the Municipality of Culebra and on Desecheo Island. The season is closed on the ruddy duck (Oxyura jamaicensis); Bahama pintail (Anas bahamensis); West Indian whistling (tree) duck (Dendrocygna arborea); fulvous whistling (tree) duck (Dendrocygna bicolor); masked duck (Oxyura dominica); purple gallinule (Porphyrula martinica); American coot (Fulica americana); and Caribbean coot (Fulica carbaea).

CHECK COMMONWEALTH REGULATIONS FOR ADDITIONAL RESTRICTIONS.

Note: Local names for game birds: Ruddy duck (Oxyura jamaicensis)--Pato rojo (protected); purple gallinule (Porphyrula martinica)--Gallareta azul (protected); and Puerto Rican plain pigeon (Columba inornata wetmorei)--Paloma sabanera (protected).

(c) Virgin Islands

	Zenaida Dove	Scaly-naped Pigeon	Ducks
Daily bag limits	10	5	3
Possession limits	10	5	6
Season dates:			
Zenaida dove and scaly-naped pigeon	September 1 through October 30, 1990.		
Ducks only	December 8, 1990, through January 31, 1991.		
Shooting hours	One half-hour before sunrise until sunset.		

Restrictions: Seasons are closed for ground or quail doves and pigeons (except scaly-naped pigeon) in the Virgin Islands. The season is closed on the ruddy duck (Oxyura jamaicensis); White-cheeked pintail (Anas bahamensis); West Indian whistling (tree) duck (Dendrocygna arborea); fulvous whistling (tree) duck (Dendrocygna bicolor); masked duck (Oxyura dominica), and purple gallinule (Porphyrula martinica).

Note: Local names for game birds: Zenaida dove - mountain dove; Bridled quail dove - Barbary dove, partridge (protected); Ground dove - stone dove, tobacco dove, rola, tortolita (protected); Scaly-naped pigeon - red-necked pigeon, scaled pigeon.

CHECK COMMONWEALTH REGULATIONS FOR ADDITIONAL RESTRICTIONS.

5. Section 20.102 is revised to read as follows:

§20.102 Seasons, limits, and shooting hours for Alaska.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Shooting and hawking hours: One-half hour before sunrise to sunset daily.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Open Seasons	Ducks, Geese (including Brant), Cranes, and Snipe
Area	
State Game Mgmt. Units: 11-13 and 17-26	Sept. 1-Dec. 16
State Game Mgmt. Units: 5-7, 9, 14-16 & 10 (Unimak Island only)	Sept. 1-Dec. 16
State Game Mgmt. Units. 1-4	Sept. 1-Dec. 16
State Game Mgmt. Units: 8 and 10 (except Unimak Island)	Oct. 8-Jan. 22

Daily Bag and Possession Limits

Area	Ducks(1)	Geese(2)	Emperor Geese	Brant	Common Snipe	Sandhill Cranes
Units 11-13 & 17 26	8-24	6-12	Closed	2-4	8-16	Units 11-13 & 18-26, 3-6; Unit 17, 2-4
Units 5-7, 9, 14-16 & 10 (Unimak Island only)	6-18	6-12	Closed	2-4	8-16	2-4
Units 1-4	5-15	6-12	Closed	2-4	8-16	2-4
Unit 10 (except Unimak Island)	5-15	6-12	Closed	2-4	8-16	2-4
Unit 8	5-15	6-12	Closed	2-4	8-16	2-4

(1) In Units 1-26 (Statewide) the basic bag limits may include not more than 2 pintails daily and 6 pintails in possession, and 1 canvasback daily and 3 canvasback in possession. In addition to the basic daily bag and possession limits, a daily bag limit of 15 and a possession limit of 30 is permitted singly or in the aggregate of the following species: scoter, eider, oldsquaw, harlequin, and common and red-breasted mergansers.

(2) No more than 4 daily, or 8 in possession may be any combination of Canada and/or white-fronted geese, provided that: in Units 1-9 and 14-18, no more than 2 daily, or 4 in possession, may be white-fronted geese. In Units 5 and 6, the taking of Canada geese is only permitted from September 21 through December 16. In Units 8, 9(E), 10 (except Unimak Island) and 18, the taking of Canada geese is prohibited. In Unit 1(C), the taking of snow geese is prohibited. In Units 1-26 (Statewide), the taking of Aleutian and cackling Canada geese and emperor geese is prohibited.

(3) The total combined bag and possession limit for waterfowl taken with the use of a falcon under a falconry permit is 3 per day and 6 in possession and may not exceed a more restrictive limit for any species listed in this subsection.

Special Tundra Swan Season: In Unit 22, there will be an experimental tundra swan season from September 1 through October 30, 1990, with a limit of 1 swan per hunter per season. This season is by registration permit only. Up to 300 permits may be issued.

6. Section 20.103 is revised to read as follows:

§20.103 Seasons, limits, and shooting hours for mourning and white-winged doves and wild pigeons.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours and the daily bag and possession limits on the species designated in this section are prescribed as follows.

(a) Mourning Doves -- Eastern Management Unit

In Delaware, Florida, Georgia, Louisiana, Maryland, North Carolina, Pennsylvania, Rhode Island, South Carolina, Virginia and West Virginia

Daily bag limit	12
Possession limit	24

In Illinois, Indiana, Kentucky, Mississippi and Tennessee:

Daily bag limit	15
Possession limit	30

In Alabama:

North Zone

Daily Bag Limit	15
Possession Limit	15

South Zone

Daily Bag Limit	12
Possession limit	12

Shooting and hawking hours: One-half hour before sunrise to sunset except as noted otherwise.

Alabama:

North Zone: (1)	
12 noon to sunset	Sept. 15
1/2 hour before sunrise to sunset	Sept. 16-Nov. 3 & Dec. 22-Dec. 31
South Zone: (1)	
1/2 hour before sunrise to sunset	Sept. 22-Sept. 23 & Oct. 13-Oct. 31
12 noon to sunset	Nov. 1-Dec. 9 & Dec. 22-Dec. 31
Connecticut	Closed
Delaware	
12 noon to sunset	Sept. 1-Sept. 22 & Oct. 15-Oct. 27
1/2 hour before sunrise to sunset	Dec. 10-Jan. 12
Florida (2):	
12 noon to sunset	Oct. 6-Oct. 28
1/2 hour before sunrise to sunset	Nov. 10-Nov. 25 & Dec. 8-Jan. 6
Georgia:	
North Zone (3)	
12 noon to sunset	Sept. 1
1/2 hour before sunrise to sunset	Sept. 2-Sept. 30 & Nov. 22-Nov 25 & Dec. 11-Jan. 15
South Zone (3)	
12 noon to sunset	Sept. 22
1/2 hour before sunrise to sunset	Sept. 23-Oct. 21 & Nov. 22-Nov. 25 & Dec. 11-Jan. 15.
Illinois:	
12 noon to sunset	Sept. 1-Oct. 30.
Indiana:	
12 noon to sunset	Sept. 1-Oct. 16.
1/2 hour before sunrise to sunset	Nov. 9-Nov. 18 & Nov. 22-Nov. 25
Kentucky:	
11 a.m. to sunset	Sept. 1-Sept. 30 & Oct. 6-Oct. 29
sunrise to sunset	Dec. 1-Dec. 6
Louisiana:	
12 noon to sunset	Sept. 1-Sept. 2 & Oct. 13-Oct. 14 & Dec. 8-Dec. 9
1/2 hour before sunrise to sunset	Sept. 3-Sept. 9 & Oct. 15-Nov. 11 & Dec. 10-Jan. 7
Maine	Closed
Maryland:	
12 noon to sunset	Sept. 1-Oct. 20
1/2 hour before sunrise to sunset	Nov. 17-Nov. 23 & Dec. 17-Dec. 29
Massachusetts	Closed
Michigan	Closed
Mississippi	Sept. 1-Sept. 23 & Oct. 13-Oct. 27 & Dec. 22-Jan. 12
New Hampshire	Closed

New Jersey	Closed
New York	Closed
North Carolina	Sept. 1-Oct. 6 & Nov. 20-Nov. 24 & Dec. 15-Jan. 12
Ohio	Closed
Pennsylvania:	
12 noon to sunset	Sept. 1-Oct. 13
1/2 hour before sunrise to sunset	Oct. 27-Nov. 17
Rhode Island:	
12 noon to sunset	Sept. 17-Oct. 6
sunrise to sunset	Oct. 20-Nov. 18 & Dec. 26-Jan. 14
South Carolina	Sept. 1-Oct. 6 & Nov. 17-Nov. 24 & Dec. 21-Jan. 15
Tennessee:	
12 noon to sunset	Sept. 1
1/2 hour before sunrise to sunset	Sept. 2-Sept. 30 & Oct. 13-Oct. 27 & Dec. 15-Dec. 29
Vermont	Closed
Virginia:	
12 noon to sunset	Sept. 1-Nov. 3
1/2 hour before sunrise to sunset	Dec. 24-Dec. 29
West Virginia:	
12 noon to sunset	Sept. 1
1/2 hour before sunrise to sunset	Sept. 2-Oct. 13 & Dec. 17-Jan. 12
Wisconsin	Closed

(1) In Alabama, the South Zone is defined as: Mobile, Baldwin, Escambia, Covington, Coffee, Geneva, Dale, Houston and Henry Counties. North Zone: remainder of the State.

(2) In Florida, the daily bag limit is 12 mourning and white-winged doves in the aggregate, of which not more than 4 may be white-winged doves. The possession limit is 24 mourning and white-winged doves in the aggregate, of which not more than 8 may be white-winged doves.

(3) In Georgia, the North Zone is defined as that area lying north of a division line as follows: U.S. Highway 280 from Columbus to Wilcox County, thence southward along the western border of Wilcox County, thence east along the southern border of Wilcox County to the Ocmulgee River, thence north along the Ocmulgee River to Highway 280, thence east along Highway 280 to the Little Ocmulgee River; thence southward along the Little Ocmulgee River to the Ocmulgee River; thence southwesterly along the Ocmulgee River to the western border of Jeff Davis County, south along the western border of Jeff Davis County, east alonng the southern border of Jeff Davis and Appling Counties, north along the eastern border of Appling County to the Altamaha River, east to the eastern border of Tattnall County; north along the eastern boundary of Tattnall County, north along the western border of Evans County to Candler County, east along the northern border of Evans County to Bulloch County, north along the western border of Bulloch County to Highway 301, then northeast along Highway 301 to the South Carolina line.

(b) Mourning Doves--Central Management Unit.

In Missouri:

Daily bag limit	12
Possession limit	24

In Texas:

Daily bag limit	12(3)
Possession limit	24(3)

In Arkansas, Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, and Wyoming:

Daily bag limit	15(1)
Possession limit	30(1)

Shooting and hawking hours: One-half hour before sunrise until sunset except as noted otherwise.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Arkansas	Sept. 1-Sept. 23 & Oct. 6-Oct. 21 & Dec. 15-Jan. 4
Colorado	Sept. 1-Oct. 30
Iowa	Closed
Kansas	Sept. 1-Oct. 30
Minnesota	Closed

Missouri	Sept. 1-Nov. 9
Montana	Sept. 1-Oct. 10
Nebraska	Sept. 1-Oct. 30
New Mexico(1)	Sept. 1-Sept. 30 & Dec. 1-Dec. 30
North Dakota	Sept. 1-Oct. 30
Oklahoma	Sept. 1-Oct. 30
South Dakota	Sept. 1-Oct. 19
Texas:(2)(3)	
North Zone	Sept. 1-Nov. 9
Central Zone	Sept. 1-Oct. 24 & Jan. 5-Jan. 20
South Zone(4)	Sept. 20-Nov. 12 & Jan. 5-Jan. 20
Wyoming	Sept. 1-Oct. 15

(1) In New Mexico, the daily bag limit is 15 and the possession limit is 30 white-winged and mourning doves, singly or in the aggregate of these species.

(2) In Texas, the three zones are North, South and Central as follows:

NORTH ZONE - That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Interstate Highway 20; northeast along Interstate Highway 20 to Interstate Highway 30 at Fort Worth; northeast along Interstate Highway 30 to the Texas-Arkansas State line.

SOUTH ZONE - That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. 90 to San Antonio; then east on Interstate 10 to Orange, Texas.

CENTRAL ZONE - That portion of the State lying between the North and South Zones.

(3) In Texas, the daily bag limit is 12 mourning, white-winged and white-tipped doves in the aggregate, of which no more than 2 can be white-winged doves and 2 can be white-tipped doves; and the possession limit is 24, of which no more than 4 may be whitewings, and 4 may be whitetips, except during the special 2-day white-winged dove season in 2 portions of the Special White-winged Dove Area of the South Zone. In that portion north and west of Del Rio, the aggregate daily bag limit for doves is 10 daily, not to exceed 2 white-tipped doves, while south and east of Del Rio, the aggregate daily bag limit for doves may not contain more than 5 mourning doves and 2 white-tipped doves. Possession limits are twice the daily bag limit.

(4) In Texas, the mourning dove season in the Special White-winged Dove Area of the South Zone is Sept. 20-Nov. 10 and Jan. 5-Jan. 20.

(c) Mourning Doves--Western Management Unit.

In Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington:

Daily bag limit	10(1)(2)
Possession limit	20 (1)(2)

Shooting and hawking hours: One-half hour before sunrise until sunset.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Arizona (1)	
1/2 hour before sunrise to noon . . .	Sept. 1-Sept. 10
1/2 hour before sunrise to sunset . .	Nov. 23-Jan. 11
California (2) .	Sept. 1-Sept. 15 & Nov. 10-Dec. 24
Idaho	Sept. 1-Sept. 30
Nevada (2)	Sept. 1-Sept. 30
Oregon	Sept. 1-Sept. 30
Utah	Sept. 1-Sept. 30
Washington	Sept. 1-Sept. 15

(1) In Arizona, during September 1 through 10, 1990, the daily bag limit is 10 mourning and white-winged doves in the aggregate of which no more than 6 may be white-winged doves. The possession limit after opening day is 20 mourning and white-winged doves in the aggregate of which no more than 12 may be white-winged doves. During November 23, 1990, through January 11, 1991, the bag and possession limits are 10 and 20 mourning doves, respectively.

(2) In those counties of California (Imperial, Riverside, and San Bernardino) and Nevada (Clark and Nye) having a season on white-winged doves, the daily bag limit is 10 and the possession limit is 20 mourning and white-winged doves, singly or in the aggregate of these species.

HAWAII REGULATIONS. Subject to the applicable provisions of the preceding sections of this part, mourning doves may be taken in accordance with the State regulations.

(d) White-winged Doves

Shooting and hawking hours: One-half hour before sunrise until sunset except as noted otherwise.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in:	Season Dates	Limits Bag	Poss.
Arizona (Statewide)	Sept. 1-Sept. 10	6(1)	12(1)
California: (2)			
Imperial, Riverside, and San Bernardino Counties	Sept. 1-Sept. 15 & Nov. 10-Dec. 24	10(2)	20(2)
Remainder of State	Closed		
Florida:	See Mourning dove regulations		
Nevada: (2)			
Clark and Nye Counties	Sept. 1-Sept. 30	10(2)	20(2)
Remainder of State	Closed		
New Mexico (3)	Sept. 1-Sept. 30 & Dec. 1-Dec. 30	15(3)	30(3)
Texas: (4)(5)			
Area in South Zone	Sept. 1 and 2	10(5)	20(5)
Remainder of State	See Mourning dove regulations		

(1) In Arizona, during September 1 through 10 the daily bag limit is 10 mourning and white-winged doves in the aggregate of which no more than 6 may be white-winged doves. The possession limit after opening day is 20 mourning and white-winged doves in the aggregate of which no more than 12 may be white-winged doves.

(2) In designated counties of California and Nevada, the daily bag limit is 10 and the possession limit is 20 white-winged and mourning doves, singly or on the aggregate of both species.

(3) In New Mexico, the daily bag limit is 15 and the possession limit is 30 white-winged and mourning doves, singly or in the aggregate of both species.

(4) SPECIAL WHITE-WINGED DOVE AREA IN THE SOUTH ZONE - That portion of State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. Highway 90 to Uvalde, south on U.S. Highway 83 to State Highway 44; east along State Highway 44 to State Highway 16 at Freer; south along State Highway 16 to State Highway 285 at Hebbronville; east along State Highway 285 to FM 1017; southeast along FM 1017 to State Highway 186 at Linn; east along State Highway 186 to Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

(5) For Texas, during the 2-day hunt in the Special White-winged Dove Area, the daily bag limits are: south and east of Del Rio, 10 white-winged, mourning and white-tipped doves in the aggregate of which no more than 5 may be mourning doves and 2 may be white-tipped doves; north and west of Del Rio, 10 doves in the aggregate of which no more than 2 may be white-tipped doves. Possession limits are twice the daily bag limits.

(e) Band-tailed Pigeons

Shooting and hawking hours: One-half hour before sunrise until sunset.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in:	Season Dates	Limits Bag	Poss.
Arizona (1)	Oct. 12-Nov. 10	5	10
California:			
Alpine, Butte, Del Norte, Glen, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties	Sept. 15-Sept. 30	2	2
Remainder of State	Dec. 8-Dec. 23	2	2
Colorado	Sept. 1-Sept. 30	5	10
Nevada:			
Carson City, Douglas, Lyon, Washoe, Humboldt, Pershing, Churchill, Mineral, and Storey Counties only	Sept. 15-Sept. 30	2	2
New Mexico:			
North Zone (2)	Sept. 1-Sept. 20	5	10

South Zone (2)	Oct. 1-Oct. 20	5	10
Oregon	Sept. 15-Sept. 23	2	2
Utah	Sept. 1-Sept. 30	5	10
Washington (3)	Sept. 15-Sept. 23	2	2

(1) In Arizona, each hunter must have a special bird permit stamp issued by the State.

(2) In New Mexico, the North Zone is defined as that area lying north and east of a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and then south along Interstate Highway 25 to the Texas State line. The South Zone is that area lying south and west of the North Zone.

(3) Western Washington only.

7. Section 20.104 is revised to read as follows:

§20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are as follows:

	Rails (Sora & Virginia)	Rails (Clapper & King)	Woodcock	Common Snipe
Daily bag limit	25 (1)	See footnote (2).	5 (3)	8
Possession limit	25 (1)	See footnote (2).	10 (3)	16

Shooting and Hawking Hours: One-half hour before sunrise until sunset daily on all species, except as noted otherwise.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in the Atlantic Flyway:				
Connecticut	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Oct. 20-Dec. 3	Oct. 20-Dec. 3
Delaware	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Nov. 19-Jan. 2	Nov. 19-Jan. 31
Florida	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Dec. 8-Jan. 21	Oct. 17-Jan. 31
Georgia	Sept. 8-Nov. 16	Sept. 8-Nov. 16	Nov. 24-Jan. 7	Nov. 20-Feb. 28
Maine	Sept. 1-Nov. 9	Closed	Oct. 1-Nov. 14	Sept. 1-Dec. 16
Maryland	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Oct. 19-Nov. 23 & Dec. 3-Dec. 11	Sept. 29-Nov. 23 & Nov. 26-Jan. 15
Massachusetts	Sept. 1-Nov. 9	Closed	Oct. 10-Nov. 23	Sept. 1-Dec. 15
New Hampshire	Closed	Closed	Oct. 1-Nov. 14	Sept. 15-Nov. 30
New Jersey (4):				
North Zone	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Oct. 13-Nov. 16	Oct. 1-Jan. 15
South Zone	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Nov. 10-Dec. 1 & Dec. 15-Dec. 27	Oct. 1-Jan. 15
New York (9)	Sept. 1-Nov. 9	Closed	Oct. 1-Nov. 14	Sept. 1-Dec. 16
North Carolina	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Dec. 6-Jan. 19	Nov. 14-Feb. 28
Pennsylvania	Sept. 1-Nov. 3	Closed	Oct. 27-Nov. 17	Oct. 27-Nov. 17
Rhode Island	Sept. 17-Nov. 25	Sept. 17-Nov. 25	Oct. 20-Nov. 30	Sept. 17-Nov. 30 & Dec. 10-Jan. 10
South Carolina	Sept. 6-Sept. 10 & Oct. 3-Dec. 6	Sept. 6-Sept. 10 & Oct. 3-Dec. 6	Nov. 22-Dec. 8 & Dec. 23-Jan. 19	Nov. 14-Feb. 28
Vermont	Closed	Closed	Oct. 1-Nov. 14	Sept. 29-Dec. 7
Virginia	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Nov. 5-Dec. 1 & Dec. 19-Jan. 5	Oct. 17-Jan. 31
West Virginia	Sept. 1-Nov. 9	Closed	Oct. 13-Nov. 26	Sept. 1-Dec. 15
Seasons in the Mississippi Flyway:				
Alabama (10)	Nov. 12-Jan. 20	Nov. 12-Jan. 20	Nov. 28-Jan. 31	Nov. 14-Feb. 28
Arkansas	Sept. 1-Nov. 9	Closed	Nov. 3-Dec. 16 & Jan. 5-Jan. 25	Nov. 10-Feb. 24
Illinois	Sept. 1-Nov. 9	Closed	Oct. 1-Dec. 4	Sept. 1-Dec. 16
Indiana	Sept. 1-Nov. 9	Closed	Sept. 15-Sept. 21 & Sept. 29-Nov. 25	Sept. 1-Dec. 16
Iowa	Sept. 1-Nov. 9	Closed	Sept. 15-Nov. 18	Sept. 1-Dec. 16
Kentucky	Deferred	Closed	Oct. 1-Dec. 4	Oct. 1-Dec. 4
Louisiana	Nov. 17-Jan. 20	Nov. 17-Jan. 20	Dec. 1-Feb. 3	Nov. 20-Feb. 24
Michigan (5)	Sept. 15-Nov. 14	Closed	Sept. 15-Nov. 14	Sept. 15-Nov. 14

Minnesota	Sept. 1-Nov. 4	Closed	Sept. 1-Nov. 4	Sept. 1-Nov. 4
Mississippi	Oct. 13-Dec. 21	Oct. 13-Dec. 21	Dec. 26-Feb. 28	Nov. 14-Feb. 28
Missouri	Sept. 1-Nov. 9	Closed	Oct. 15-Dec. 18	Sept. 1-Dec. 16
Ohio	Sept. 1-Nov. 9	Closed	Sept. 21-Nov. 24	Sept. 1-Nov. 24 & Dec. 3-Dec. 22
Tennessee	Deferred	Closed	Oct. 20-Nov. 25 & Feb. 1-Feb. 28	Nov. 14-Feb. 28
Wisconsin	Deferred	Closed	Sept. 15-Nov. 18	Deferred
Seasons in the Central Flyway:				
Colorado (6)	Sept. 1-Nov. 9	Closed	Closed	Sept. 1-Dec. 16
Kansas	Sept. 1-Nov. 9	Closed	Oct. 6-Dec. 9	Sept. 1-Dec. 16
Montana (6)	Closed	Closed	Closed	Sept. 1-Dec. 16
Nebraska (7)	Sept. 1-Nov. 9	Closed	Sept. 15-Nov. 18	Sept. 1-Dec. 15
New Mexico(6)(11)				
North Zone	Deferred	Closed	Closed	Deferred
South Zone	Deferred	Closed	Closed	Deferred
North Dakota	Closed	Closed	Closed	Sept. 29-Nov. 25
Oklahoma	Sept. 1-Nov. 9	Closed	Oct. 27-Dec. 30	Oct. 1-Jan. 15
South Dakota (8)	Closed	Closed	Closed	Sept. 1-Oct. 31
Texas	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Deferred	Deferred
Wyoming (6)	Sept. 15-Nov. 23	Closed	Closed	Sept. 15-Dec. 30
Seasons in the Pacific Flyway:				
Colorado (6)	Sept. 1-Nov. 9	Closed	Closed	Sept. 1-Dec. 16
Idaho	Closed	Closed	Closed	Sept. 22-Jan. 6
Montana (6)	Closed	Closed	Closed	Sept. 1-Dec. 16
New Mexico (6)(11)	Deferred	Closed	Closed	Deferred
Wyoming (6)	Sept. 15-Nov. 23	Closed	Closed	Sept. 15-Dec. 16

Note: For all other States in the Pacific Flyway, no seasons are prescribed for woodcock and rails, and snipe seasons have been deferred.

(1) The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these two species.

(2) In addition to the limits on sora and Virginia rails, in Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, there is a daily bag limit of 10 and possession limit of 20 clapper and king rails, singly or in the aggregate of these two species, except that the season is closed on king rails in New Jersey by State regulation. In Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, there is a daily bag limit of 15 and possession limit of 30 clapper and king rails, singly or in the aggregate of these two species.

(3) In States of the Atlantic Flyway, the woodcock bag limit is 3 daily and 6 in possession.

(4) For description of zones or management units within a State, see State regulations.

(5) See State regulations for listing of certain Great Lakes waters where the season is to open concurrently with the duck season.

(6) The Central Flyway portion consists of: Colorado and Wyoming -- the area lying east of the Continental Divide; Montana -- the area lying east of Hill, Chouteau, Cascade, Meagher, and Park Counties; New Mexico -- the area lying east of the Continental Divide but outside the Jicarilla Apache Indian Reservation. The remaining portions of these States are in the Pacific Flyway.

(7) In Nebraska, the rail limits are 10 daily and 20 in possession.

(8) In South Dakota, the snipe limits are 5 daily and 15 in possession.

(9) In New York, the seasons for rails (Sora and Virginia) and common snipe are statewide except in Long Island.

(10) In Alabama, the rail limits are 15 daily and 15 in possession, singly or in the aggregate.

(11) In New Mexico, the rail limits are 10 daily and 10 in possession.

NOTE: Some States may select rail, woodcock, and snipe seasons at the time they select their duck seasons in August. Consult waterfowl regulations to be published later for information concerning these seasons.

8. Section 20.105 is amended by revising paragraphs (a) through (c) and by amending paragraph (d) to read as follows:

§20.105 Seasons, limits, and shooting hours for waterfowl, coots, and common moorhens and purple gallinules.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) Sea Ducks.

(1) An open season for taking scoter, eider and oldsquaw ducks is prescribed according to the following table during the period between September 15, 1990, and January 20, 1991, in all coastal waters and all

waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least one mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks and they must be included in the regular duck season daily bag and possession limits.

(2) Within the special sea duck areas, the daily bag limit is 7 and the possession limit is 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate. These limits may be in addition to regular duck bag limits during the regulation duck season in the special sea duck hunting areas.

(3) Shooting hours are one-half hour before sunrise until sunset daily.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS.

Seasons in:	
Connecticut	Deferred
Delaware	Sept. 21-Jan. 5
Georgia	Nov. 22-Jan. 6
Maine	Deferred
Maryland	Deferred
Massachusetts	Deferred
New Hampshire	Sept. 15-Dec. 30
New Jersey	Oct. 1-Jan. 15
New York (Long Island only)	Sept. 22-Jan. 6
North Carolina	Deferred
Rhode Island	Deferred
South Carolina	Deferred
Virginia	Deferred

(4) Notwithstanding the provisions of this Part 20, the shooting of crippled waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia and Maryland in those areas described, delineated, and designated in their respective hunting regulations as being open to sea duck hunting.

NOTE: States with deferred seasons may select sea duck seasons at the time they select their waterfowl seasons in August. Consult waterfowl regulations to be published later for information concerning these later seasons.

(b) Teal. The September teal season is suspended in 1990.

(c) Common Moorhens and Purple Gallinules.

Bag limit	15 singly or in the aggregate of the two species.
Possession limit	30 singly or in the aggregate of the two species.

Shooting and hawking hours: One-half hour before sunrise to sunset.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS.

Seasons in the Atlantic Flyway:	
Connecticut	Sept. 1-Nov. 9
Delaware	Sept. 1-Nov. 9
Florida (1)	Sept. 1-Nov. 9
Georgia	Nov. 22-Nov. 25 & Dec. 12-Jan. 6
Maine	Sept. 1-Nov. 9
Maryland	Closed
Massachusetts	Closed
New Hampshire	Closed
New Jersey	Sept. 1-Nov. 9
New York:	
Long Island	Closed
Remainder of State	Sept. 1-Nov. 9
North Carolina	Sept. 1-Nov. 9
Pennsylvania	Sept. 1-Nov. 3

Rhode Island	Sept. 17-Nov. 25
South Carolina	Sept. 6-Sept. 10 & Oct. 3-Dec. 6
Vermont	Closed
Virginia	Deferred
West Virginia	Deferred
Seasons in the Mississippi Flyway:	
Alabama (2)	Nov. 12-Jan. 20
Arkansas	Sept. 1-Nov. 9
Illinois	Closed
Indiana	Sept. 1-Nov. 9
Iowa	Closed
Kentucky	Deferred
Louisiana	Nov. 17-Jan. 20
Michigan	Deferred
Minnesota	Deferred
Mississippi	Oct. 13-Dec. 21
Missouri	Closed
Ohio	Sept. 1-Nov. 9
Tennessee	Deferred
Wisconsin	Deferred
Seasons in the Central Flyway:	
Colorado (3)	Closed
Kansas	Closed
Montana (3)	Closed
Nebraska	Closed
New Mexico (3)(4)	
North Zone	Deferred
South Zone	Deferred
North Dakota	Closed
Oklahoma	Sept. 1-Nov. 9
South Dakota	Closed
Texas	Sept. 1-Nov. 9
Wyoming (3)	Oct. 6-Oct. 22 & Nov. 10-Nov. 26
Seasons in the Pacific Flyway:	
All States and portions thereof	Deferred

(1) The season in Florida applies to the common moorhen only. There is no open season on the purple gallinule in Florida.

(2) In Alabama, the bag limit is 15 daily and 15 in possession.

(3) Seasons apply to Central Flyway portion of State only.

(4) In New Mexico, the bag limit is 2 common moorhens daily and 4 in possession; there is no open season on the purple gallinule in New Mexico.

NOTE: States with deferred seasons may select moorhen and gallinule seasons at the time they select their waterfowl seasons in August. Consult waterfowl regulations to be published later for information concerning these later seasons.

(d) Waterfowl and coots in Atlantic, Mississippi, Central and Pacific Flyways.

ATLANTIC FLYWAY

Flywaywide Restrictions.

Shooting and hawking hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

* * * * *

	Season Dates	Limits	
		Bag	Possession

* * * * *

	Season Dates	Limits Bag	Possession
Wood ducks	Sept. 22-Sept. 26	3	6
• • • • •			
Massachusetts (1)(3)			
Canada Geese	Sept. 4- Sept. 10	5	10
• • • • •			
New York (1)			
Canada Geese	Sept. 1-Sept. 10	3	6
• • • • •			
North Carolina (3)			
Canada Geese	Sept. 4-Sept. 10	2	4
• • • • •			
Mississippi Flyway			
• • • • •			
• • • • •			
Illinois (1)			
Canada Geese	Sept. 1-Sept. 10	5	10
• • • • •			
Kentucky			
Wood ducks	Sept. 12-Sept. 16	2	4
• • • • •			
Michigan (1)			
Canada Geese	Sept. 1-Sept. 10	3	6
• • • • •			
Minnesota (1)			
Canada Geese	Sept. 1-Sept. 10	4(2)	8(2)
• • • • •			
Tennessee			
Wood ducks	Sept. 8-Sept. 12	2	4
• • • • •			
Wisconsin (1)			
Canada Geese	Sept. 4-Sept. 10	5	10
• • • • •			
Pacific Flyway			
• • • • •			
• • • • •			
Oregon (1)(3)			
Canada Geese	Sept. 1-Sept. 10	2	4
• • • • •			
Utah (1)(3)(4)			
Canada Geese	Sept. 1-Sept. 2 Sept. 8-Sept. 9	2 per season 2 per season	
Washington (1)(3)			
Canada Geese	Sept. 1-Sept. 10	2	4
Wyoming (1)(3)			
Canada Geese	Sept. 1-Sept. 3	2 per season	
• • • • •			

(1) Check August 14, 1990, Federal Register or State regulations for areas open to the hunting of Canada geese.

(2) In Minnesota, the bag and possession limits for Canada geese will be 2 and 4, respectively, in the Fergus Falls/Alexandria Zone and Southwest Border Zone.

(3) State permit required.

(4) In Utah, the shooting hours are sunrise to sunset.

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* * * * *

9. Section 20.106 is revised to read as follows:

§20.106 Seasons, limits, and shooting hours for sandhill cranes.

Central Flyway: Subject to the applicable provisions of the preceding sections of this part, open seasons are prescribed for taking sandhill cranes with a daily bag limit of 3 and a possession limit of 6 cranes (unless otherwise noted), and with shooting hours from one-half hour before sunrise until sunset (unless otherwise noted) in the following areas for the dates indicated:

(a) In Colorado (the Central Flyway portion except the San Luis Valley and North Park) the inclusive dates are September 29 through November 25, 1990.

(b) In New Mexico (a) in the counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, the inclusive dates for the regular season are October 20, 1990, through January 20, 1991; (b) in the Middle Rio Grande Valley Hunt Area (described in State regulations) the inclusive dates for the experimental season are October 26 through October 28, 1990; and (c) in the Hatch-Deming Zone in the counties of Sierra, Luna, and Dona Ana the inclusive dates are January 12-January 13 and January 19-January 20, 1991.

Hunting in the experimental seasons is by State permit only. The daily bag limit is 3 sandhill cranes, the possession limit is 6, and the seasonal bag limit is 9; except in the Middle Rio Grande Valley and Hatch-Deming Areas where the possession limit is 3 sandhill cranes. Shooting hours are sunrise to sunset.

(c) In Oklahoma (that portion west of I-35), the season has been deferred.

(d) In Texas (that portion west of a line from Brownsville along U.S. 77 to Victoria; U.S. 87 to Placedo; Farm Road 616 to Blessing; State 35 to Alvin; State 6 to U.S. 290; U.S. 290 to Sonora; U.S. 277 to Abilene; Texas 351 to Albany; U.S. 283 to Vernon; and U.S. 183 to the Texas-Oklahoma boundary), the season has been deferred.

(e) In North Dakota (that portion west of U.S. Highway 281), the inclusive dates are September 8 through November 4, 1990.

(f) In South Dakota, the inclusive season dates are September 29 through November 4, 1990.

(g) In Montana (the Central Flyway portion except that area south of I-90 and west of the Bighorn River), the inclusive dates are September 29 through November 25, 1990.

(h) In Wyoming, in Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties, the inclusive season dates are September 15 through November 11, 1990.

Each hunter participating in the regular sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a valid Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to any authorized law enforcement official upon request.

Pacific Flyway

(a) In Arizona (within Game Management Units 30A, 30B, 31, and 32), the season selection has been deferred.

(b) In Utah (Cache and Rich Counties), the season dates are September 1 through September 2 and September 8 through September 9. Hunting by State permit only. Season limit is 1 sandhill crane per hunter. Shooting hours are sunrise to sunset.

(c) In Wyoming's sandhill crane hunt areas: Hunting by State permit only.

Bear River area in Lincoln County - the season dates are September 1 through September 3, 1990. Season limits are 2 sandhill cranes per hunter.

Salt River (Star Valley) area in Lincoln County - the season dates are September 1 through September 3, 1990. Season limits are 2 sandhill cranes per hunter.

10. Section 20.109 is revised to read as follows:

§20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of this part, the areas open to hunting, the respective open seasons (dates inclusive), the hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Daily bag limit . . . . . 3 singly or in the aggregate unless otherwise restricted.

Possession limit . . . . . 6 singly or in the aggregate unless otherwise restricted.

These limits apply during both regular hunting seasons and extended falconry seasons.

Hawking hours: One-half hour before sunrise until sunset daily unless otherwise restricted.

Seasons shown are for falconry only. Many States permit falconry during the gun seasons. Please consult State regulations for details.

For ducks, coots, geese, and some moorhen seasons: Additional season days occurring after September 30 will be published with the late-season selections. Some States have deferred selections. Consult waterfowl regulations to be published later for information concerning these later seasons.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS.

Atlantic Flyway

Florida:

Mourning doves and white-winged doves	Oct. 29-Nov. 9 & Nov. 26-Dec. 7 & Jan. 7-Jan. 20

Common moorhens and rails	Nov. 10-Dec. 16
Woodcock	Nov. 24-Dec. 7 & Jan. 22-Mar. 10
Georgia:	
Gallinules	Nov. 14-Nov. 21 & Nov. 26-Dec. 11 & Jan. 7-Feb. 28
Maryland:	
Mourning doves	Oct. 21 only & Nov. 4-Nov. 16 & Nov. 24-Dec. 16
Rails	Nov. 10-Dec. 16
Woodcock	Oct. 5-Oct. 18 & Nov. 24-Dec. 2 & Dec. 12-Jan. 19
Pennsylvania:	
Mourning doves	Oct. 14-Oct. 26 & Nov. 18-Dec. 15
Virginia:	
Doves	Nov. 4-Nov. 30 & Dec. 22-Dec. 23 & Dec. 30-Jan. 6
Rails	Nov. 10-Nov. 30 & Dec. 22-Jan. 6
Woodcock	Oct. 17-Nov. 4 & Dec. 2-Dec. 18 & Jan. 6-Jan. 31
Mississippi Flyway	
Illinois:	
Mourning doves	Oct. 31-Dec. 16
Rails	Nov. 10-Dec. 16
Woodcock	Sept. 1-Sept. 30 & Dec. 5-Dec. 16
Indiana:	
Mourning doves	Oct. 17-Nov. 8 & Jan. 1-Jan. 24
Woodcock	Sept. 1-Sept. 14 & Sept. 22-Sept. 28
Iowa:	
Ducks (4)	Sept. 1-Sept. 30
Geese (4):	
Southwest Zone	Sept. 16-Sept. 30
Rest of State	Sept. 2-Sept. 30
Michigan:	
Snipe, rails, and woodcock	Sept. 7-Sept. 14 & Nov. 15-Dec. 22
Ducks, coots, and moorhens (4):	
North and Middle Zones	Sept. 7-Sept. 30
South Zone	Sept. 7-Sept. 30
Minnesota:	
Ducks, coots, and moorhens (4)	Sept. 1-Sept. 30
Rails, woodcock, and snipe	Nov. 5-Dec. 16
Missouri:	
Mourning doves	Nov. 10-Dec. 16
Wisconsin:	
Woodcock	Sept. 1-Sept. 14 & Nov. 19-Dec. 16
Rails, snipe, moorhens, and gallinules (4)	Sept. 1-Sept. 30
Central Flyway	
Colorado:	
Ducks, mergansers and coots (4)	Sept. 1-Sept. 30

Montana: (1)

Ducks and coots (4)	Sept. 15-Sept. 30
Geese (4)	Sept. 22-Sept. 30

New Mexico:

Doves	Oct. 1-Nov. 4 & Nov. 21-Nov. 30 & Dec. 31-Jan. 1
Band-tailed pigeons	Sept. 21-Sept. 30 & Oct. 21-Dec. 16
Sandhill cranes only in Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties	Oct. 14-Oct. 19 & Jan. 21-Jan. 28
Ducks, coots, moorhens and snipe (4):	
North Zone	Sept. 22-Sept. 30

North Dakoa:

Cranes	Sept. 1-Sept. 7
Ducks, geese, mergansers, coots, and snipe	Sept. 1-Sept. 29

South Dakota

Ducks, mergansers, and coots (4)	Sept. 4-Sept. 30

Texas:

Rails and gallinules	Nov. 10-Nov. 20 & Jan. 1-Jan. 26
Mourning and white-winged doves	
North Zone	Nov. 10-Nov. 20 & Jan. 1-Jan. 26
Central Zone	Oct. 25-Nov. 20 & Jan. 1-Jan. 4 & Jan. 21-Jan. 26
South Zone (excluding the Special White-winged Dove Area)	Sept. 1-Sept. 19 & Nov. 13-Nov. 20 & Jan. 1-Jan. 4 & Jan. 21-Jan. 26
Special White-winged Dove Area	Sept. 3-Sept.19 & Nov. 11-Nov. 20 & Jan. 1-Jan. 4 & Jan. 21-Jan. 26

Wyoming:

Rails	Sept. 1-Sept. 14
Ducks, mergansers, and moorhens (4)	Sept. 1-Sept. 30

Pacific Flyway

Colorado:

Ducks, mergansers, and coots (4)	Sept. 22-Sept. 30

Idaho:

Mourning Doves	Oct. 1-Dec. 3 & Feb. 26-Mar. 10
Geese	Sept. 1-Sept. 14
Ducks, coots, and mergansers (4)	Sept. 1-Sept. 30

Montana: (1)

Ducks and coots (4)	Sept. 15-Sept. 30
Geese (4)	Sept. 22-Sept. 30

New Mexico:

Doves	Oct. 1-Nov. 4 & Nov. 21-Nov. 30 & Dec. 31-Jan. 1
Band-tailed pigeons	Sept. 21-Sept. 30 & Oct. 21-Dec. 16
Ducks, coots, moorhens and snipe (4):	
North Zone	Sept. 22-Sept. 30

Oregon (3):

Band-tailed pigeons	Sept. 1-Sept. 14 & Sept. 24-Dec. 16
Mourning doves	Oct. 1-Dec. 16

Utah:

Doves and pigeons	Oct. 1-Dec. 16

Wyoming:

Ducks, mergansers, and moorhens	Sept. 1-Sept. 30
Rails and snipe	Sept. 1-Sept. 14

Note: See waterfowl season footnotes for descriptions of zones. For some States, the extended falconry season dates also include general season dates.

(1) In Montana, the bag limit is 2 and the possession limit is 6.

(2) In Nevada, the bag limit is 2 and the possession limit is 4. Hawking hours are sunrise to sunset.

(3) In Oregon, no more than 1 pigeon daily in bag or possession.

(4) Additional days occurring after Sept. 30 will be published with the late-season selections.

[FR Doc. 90-20242 Filed 8-27-90; 8:45 am]
BILLING CODE 4310-55-C

federal register

Tuesday,
August 28, 1990

Part IV

Department of Education

Perkins Loan, College Work-Study, Supplemental Educational Opportunity Grant, Income Contingent Loan, and Stafford Loan Programs; Notice of Extension of Deadline Dates for Requesting and Submitting Need Analysis Servicer Agreements

DEPARTMENT OF EDUCATION

Perkins Loan, College Work-Study, Supplemental Educational Opportunity Grant, Income Contingent Loan, and Stafford Loan Programs

AGENCY: Department of Education.

ACTION: Extension of deadline dates for requesting and submitting need analysis servicer agreements.

SUMMARY: The Secretary extends the deadline date for requesting a need analysis servicer agreement package from July 20, 1990 to September 27, 1990, to provide additional time for the servicers to request an agreement package. In addition, the Secretary extends the deadline date for submitting the Need Analysis Servicer Agreement Package to the Department of Education from August 17, 1990 to October 12, 1990, to provide additional time for the servicers to return the agreement package.

On June 22, 1990, the Secretary published in the **Federal Register** a Notice (55 FR 25782–25783) informing individuals and organizations that operate need analysis systems of the procedures the Secretary will use to certify need analysis systems for the 1991–92 award year, and of the applicable deadlines for requesting and submitting an agreement package. The purpose of this Notice is to extend the deadline dates for requesting and submitting an agreement package.

FOR FURTHER INFORMATION CONTACT: Edith Bell or Lorraine Kennedy, Division of Policy and Program Development, Office of Student Financial Assistance, Department of Education, 400 Maryland Avenue, SW., ROB–3, Room 4613, Washington, DC 20202–5346, Telephone (202) 708–4601.

Dated: August 22, 1990.

Leonard L. Haynes III,

Assistant Secretary, for Postsecondary Education.

[FR Doc. 90–20205 Filed 8–27–90; 8:45 am]

BILLING CODE 4000–01–M

federal register

Tuesday
August 28, 1990

Part V

Department of Health and Human Services

Social Security Administration

20 CFR Part 404

Determining Disability and Blindness; Extension of Expiration Date for Adult Mental Disorders Listings; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Regulations No. 4]

RIN 0960-AD03

Determining Disability and Blindness; Extension of Expiration Date for Adult Mental Disorders Listings

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: The mental disorders listings in 12.00 of part A of the Listing of Impairments in appendix 1 of subpart P of part 404 will expire on August 27, 1990. These amendments extend the expiration date of the mental disorders listings through August 27, 1991. We have made no revisions in the medical criteria in these mental disorders listings; they remain the same as they now appear in the Code of Federal Regulations. Thus, under these amendments the Social Security Administration (SSA) will continue to use the medical criteria in these listings for an additional 1 year.

EFFECTIVE DATE: These rules are effective August 28, 1990.

FOR FURTHER INFORMATION CONTACT: William J. Ziegler, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965-1759.

SUPPLEMENTARY INFORMATION: Final regulations issued on August 28, 1985 (50 FR 35038), containing the adult mental disorders listings, included a 3-year sunset provision which provided that the listings would expire on August 27, 1988, unless extended by the Secretary of Health and Human Services (the Secretary) or revised and promulgated again. The reason given for the sunset provision was as follows: "The dynamic nature of the diagnosis, evaluation and treatment of the mental disease process requires that the rules in this area be periodically revised and updated. We intend to carefully monitor these regulations over a 3-year period to ensure that they fulfill congressional intent by providing for ongoing evaluation of the mental evaluation criteria. Therefore, 3 years after publication of final rules, these regulations will cease to be effective unless extended by the Secretary or revised and promulgated again as a result of the findings from the evaluation period."

On August 9, 1988, the Secretary extended the expiration date of these rules to August 27, 1990 (53 FR 29878). The extension was needed to provide additional time for us to determine what revisions to the listings might be necessary.

On October 13, 1988, we announced (53 FR 40135) a public meeting to obtain comments on whether we should revise the listings and related regulations and, if so, the specific nature of the revisions. The meeting was held in Baltimore on November 9–10, 1988. We have considered the testimony provided at the meeting and written comments received in response to the meeting announcement along with information from our evaluation activities to determine the need for and nature of these revisions.

We have also reviewed the individual recommendations of a number of experts whom we asked to review the existing listings and related regulations. Based on all the information we have received, we have developed proposed revisions to the medical criteria for evaluating mental disorders in adults. These proposed revisions will be published very soon as a Notice of Proposed Rulemaking. After the public has had an opportunity to comment on the proposed rules, we will carefully consider any comments submitted to us to determine whether any additional changes are warranted before promulgating final rules.

In order to assure sufficient time for publication of our proposed rules and consideration of the public comments we may receive on them, and to prepare final rules that will update the medical criteria in these listings to reflect advances in medical knowledge, treatment, and methods of evaluating mental disorders, we are again extending the expiration date of the current listings. Specifically, we are extending the current listing through August 27, 1991. This additional time will enable us to publish final rules that will provide up-to-date medical criteria for use in evaluating disability claims based on mental disorders.

Regulatory Procedures

The Department, even when not required by statute, as a matter of policy, generally follows the Administrative Procedure Act notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of its regulations. The Administrative Procedure Act provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b), good cause exists for waiver of notice of proposed rulemaking and public comment procedures on these regulations since opportunity for public comment is unnecessary. Prior notice and comment are unnecessary because these regulations involve only the extension of the expiration date of the adult mental disorders listings, and make no substantive changes on these listings. The current regulations expressly provide that the listings may be extended by the Secretary, as well as revised and promulgated again. Since we are not making any revisions to the current listings in these final rules, use of public comment procedures is not contemplated by the existing regulations and is unnecessary under the Administrative Procedure Act.

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because these regulations do not meet any of the threshold criteria for a major rule. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because such impact is not experienced with current use of these regulations.

Paperwork Reduction Act

These regulations impose no reporting/recordkeeping requirements necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program Nos. 13.802, Social Security Disability Insurance; 13.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-age, survivors and disability insurance.

Dated: August 10, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: August 23, 1990.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, part 404, subpart P, chapter III of title 20 Code of Federal Regulations is amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-)

20 CFR part 404, subpart P is amended as follows:

1. The authority citation for subpart P is revised to read as follows:

Authority: Secs. 202, 205 (a), (b), and (d)–(h), 216(i), 221 (a) and (i), 222(c), 223, 225, and 1102 of the Social Security Act; 42 U.S.C. 402, 405 (a), (b), and (d)–(h), 416(i), 421 (a) and (i), 422(c), 423, 425, and 1302; sec. 505(a) of Pub. L. 96–265, 94 Stat. 473; secs. 2(d)(2), 5, 6, and 15 of Pub. L. 98–460, 98 Stat. 1797, 1801, 1802, and 1808.

2. Appendix 1 to subpart P is amended by revising the last sentence of the fifth paragraph of the introductory text to read as follows:

Appendix 1 to Subpart P—Listing of Impairments

* * * * *

* * * The mental disorders listings in Part A will no longer be effective on August 38, 1991, unless extended by the Secretary or revised and promulgated again.

* * * * *

3. Listings 12.00 Mental Disorders of appendix 1 to subpart P, part A is amended by revising the first paragraph to read as follows:

Appendix 1 to Subpart P—Listing of Impairments

* * * * *

Part A

* * * * *

12.00 Mental Disorders

The mental disorders listings in 12.00 of the Listing of Impairments will no longer be effective on August 28, 1991, unless extended by the Secretary or revised and promulgated again.

* * * * *

[FR Doc. 90–20344 Filed 8–24–90; 12:31 pm]

BILLING CODE 4910–11–M

federal register

Tuesday
August 28, 1990

Part VI

The President

Memorandum of August 24, 1990—Delegating Certain Authorities of the President Under the Oil Pollution Act of 1990

Digest

Federal Register
Vol. 55, No. 167
Tuesday, August 28, 1990

Presidential Documents

Title 3—

The President

Memorandum of August 24, 1990

Delegating Certain Authorities of the President Under the Oil Pollution Act of 1990

Memorandum for the Secretary of the Department in Which the Coast Guard is Operating

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code and sections 1012 and 6002 of the Oil Pollution Act of 1990 (Public Law 101–380, 104 Stat. 484) ("the Act"), I hereby delegate the following authorities to, and approve the exercise thereof by, the Secretary of the Department in which the Coast Guard is operating, without further approval, ratification, or other action:

(1) the authority of the President under section 6002 of the Act to make available from the Oil Spill Liability Trust Fund, established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509) ("the Fund"), an amount not to exceed $50,000,000 in any fiscal year to carry out section 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) ("the FWPCA"), as amended by the Act;

(2) the authority of the President under section 1012(a) of the Act to use amounts available from the Fund to carry out section 311(c) of the FWPCA, as amended by the Act; and

(3) the authority of the President under section 1012(c) of the Act to promulgate regulations designating one or more Federal officials who may obligate such amounts for such purpose.

This memorandum shall be published in the **Federal Register**.

George Bush

THE WHITE HOUSE
Washington, August 24, 1990.

[FR Doc. 90–20462
Filed 8–27–90; 9:41 am]
Billing code 3195–01–M

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